

SELECT
PIECES

Written by the Late

Duke of WHARTON.



THE HISTORY OF THE

SELECT

PICES

WRITTEN BY THE LATE

DUKE OF WHARTON.

IN TWO VOLUMES.

In Wingham 1713.

SELECT and AUTHENTICK

PIECES

Written by the Late

Duke of WHARTON.

VIZ. *K*

- I. His SPEECH on the Passing the Bill to inflict Pains and Penalties on FRANCIS Lord Bishop of *Rochester*
- II. His Single PROTEST on that Occasion; with the previous PROTEST of the other Lords.
- III. His LETTER to the Bishop in the *Tower*.
- IV. His LETTER in *Mist's Journal*, Aug. 24. 1728.
- V. His REASONS for leaving his Native Country, and espousing the Cause of his Royal Master King JAMES III.
- VI. A LETTER from WOLFE the Printer to Sir *R. W.*

BOULOGNE:

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SELECT and AUTHENTIC

PIECES

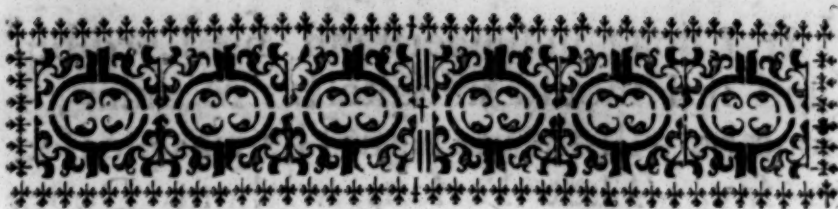
Written by the Late

Duke of WHARFON

VIZ.

- I. His Speech on the passing the Bill to amend
Laws and Penalties on Francis Ford (Bill)
of 1794.
- II. His single Protest on that Occasion, with
the previous Protest on the other Laws.
- III. His Letter to the Bishop in the Tower.
- IV. His Letter in Mr. Fox's Journal, Aug. 21, 1794.
- V. His Reasons for leaving his Native Country,
and choosing the Cause of the Royal African
King James III.
- VI. A Letter from Wolfe the Poet to
Sir A. W.





His GRACE the
Duke of WHARTON'S
S P E E C H

In the House of LORDS,
On the Third Reading of the Bill to In-
flit Pains and Penalties on FRANCIS
(late) Bishop of Rochester, the 15th
of May 1723.



SOME Words which have
fallen from the Reverend
Prelate who spoke last, have
made it, in some measure,
necessary for me to trouble
your LORDSHIPS with the
Reasons that induced me to differ with
him in Opinion, and to give my Negative
to the Bill now depending before us.

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If I don't misunderstand his Lordship (and if I should mistake his Meaning, I hope he will set me right) he was pleased to say, That Persons without Doors would be apt to cast different Reflections on the particular Behaviour of every Lord this Day; That those who were for the passing of this Bill, would be accused of Malice and Partiality; and those who were of contrary Sentiments, would be branded with Disaffection to the present Happy Establishment.

For my Part, I am far from thinking, that Considerations of this Nature will have the least Weight with any of your Lordships; and am very certain, that every one, who gives his Vote on this important Occasion, has attended, with the greatest Care, to the Evidence that has been given at your Bar, which is the Foundation of this Day's Debate.

The Proofs that have been brought to support the Charge, and the Bishop's Defence, are to be thoroughly consider'd; and when your Lordships proceed according to the Rules of Justice, you will not fear, nor value, any Consequences which may attend the discharging of your Duty.

So far I will venture to affirm, That the best Way to shew our Zeal to his Majesty, and the present Government, is, To act,
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in all Cases, both in our Judicial and Legislative Capacities, with that Honour and Impartiality, as ought to flourish in this great Council of the Nation.

I could have wished the Noble Lords who have given their Reasons for the passing this extraordinary Law, would have entered into the particular Circumstances of this Case, and considered it singly on its own Merits: But instead of speaking on that Head, I cannot but take Notice, That they have wandered from that (which ought to have been their only Consideration) into Learned Discourses on Bills of this Nature in General.

I shall not trouble this House with any Arguments against Attainders. Many Lords, of greater Weight and Abilities than myself, have already spoke fully to this Point in the preceding Debates.

I shall only so far agree with the Reverend Prelate, who spoke before me, That it is proper that such a Power of punishing by Bill, should be vested in the Legislature, to be exercised on extraordinary Emergencies: But then I must add, If ever that Power is abused; if ever it is employed to destroy innocent Persons, it is evident, That the Lives, Liberties, and Fortunes of every Subject in *Britain*,

are in the utmost Danger, and liable to be sacrificed to the Fury of a Party.

It has been admitted, That every Bill of Pains and Penalties is to stand upon its Bottom; and that the passing of one Act of this Nature, is not to be brought as a Precedent for the supporting of another, unless there be convincing Evidence to inforce each Case. And therefore the proper Consideration now before us, is, Whether the Evidence offer'd against the Unfortunate Prelate is sufficient to induce your Lordships to believe him Guilty of the heavy Crimes of which he stands accused.

My Lords, I shall take the Liberty of considering the whole Proofs that have been brought on this Occasion, both by Way of Charge, Defence, Reply, and Rejoinder; and though I own myself very unequal to this Task, yet, since no other Lord, who could do it much better, has undertaken it, I think it my Duty, as a Peer, and as an *Englishman*, to lay it before your Lordships in the best Manner I am able.

The Method I shall observe for the more clear Stating of the Case, shall be to lay every particular Branch of Evidence before you, and to distinguish the several Parts of the Accusation, and
consider

consider them separately, to avoid Confusion, and to be the more exact in what I have to offer.

I hope I shall have your Lordships Indulgence for taking up so much of your Time as this will require: But I assure you, I shall endeavour to be as brief as the Nature of the Thing will admit, and will intrude on your Patience as little as possible.

I must also desire your Lordships will pardon me, if I repeat several Arguments that have been used by the Council at the Bar; and if I even mention some Things which fell from me in the Debate on Mr. *Kelly's* Bill, whose Case is very much interwoven with the present; so that it is almost impossible to avoid it.

Before I go any further, I cannot but say, That were these Crimes plainly proved against the Bishop of *Rocheſter*, his sacred Function and Station in the Church would be Aggravations of his Guilt: But, as this is certain on the one Hand, so on the other, your Lordships will require very clear Demonstration, before you can think it possible for a Bishop of the Protestant Church (who has signalized himself in Defence of the Reformation, and the only one of that Bench, where he had lately the Honour of sitting, that

ever wrote in Favour of *Martin Luther*) to ingage into a Conspiracy for introducing Popery and Arbitrary Power amongst us.

My Lords, The Council for the Bill opened the Charge with acquainting the House, That it was only to be supported by producing of decypher'd Letters, full of fictitious Names and Cant Words; they were so very fair as to confess, they had not one living Witness that could charge the Bishop with any thing, not even so much as a Letter under his own Hand: Therefore, on the first View, this Manner of condemning, on such kind of Evidence, ought to require our utmost Caution, lest we should establish a Method, which our Enemies may hereafter take to destroy the Greatest and most Innocent Subject in the Kingdom.

Mr. *Wearg* cited two Cases, which he would willingly have us receive as Precedents to justify the admitting of Circumstantial Evidence: The one was the Case of *Ashton*, who was condemned on Circumstances only: But, my Lords, this was before the Treason-Act was passed, which requires Two positive Witnesses; and nothing could induce the Legislature to pass that Law, but a thorough Conviction of the Danger that might attend the

the admitting of any Proofs which were not positive or certain.

The second Case he cited, was that of *Harrison*, for the Murther of Dr. *Clinch*; and the learned Gentleman tells you, that it was the pulling out of a Handkerchief that led to the Discovery of that Murder. It is very certain, Circumstances may lead to the Discovery of Evidence, but must be well supported before they can be converted into convincing Proofs.

The first Piece of Evidence that was offered at the Bar, was the Extracts of Letters from Abroad, which this House seems, in some Measure, to have declared to be immaterial, when they did not so much as desire to see Copies of the whole Letters, nor the Originals, and even admitted one to be read which was Anonymous: But it will not be improper to observe, that through this whole Correspondence, the Bishop of *Rochester* is not named. And therefore I cannot see why they took up our Time with reading Papers quite foreign from this Case; especially since every Body allows there has been a Conspiracy, which is the only Fact to be gathered from this Correspondence.

The next Point which was attempted to be proved, was, That Captain *Halstead*

went to fetch the late Duke of *Ormond*, and was at the Deanery with the Bishop before he imbark'd: There are also Two Letters found in the Bishop's Close-stool from this Gentleman to his Lordship, which were read, and are only Appointments for Visits, but mention nothing of this Design; and, I think, there was a Coachman, that proved *Halstead* was an Hour with him some Days before he left *London*.

This, my Lords, was open'd as a Matter of great Importance; but your Lordships must remember, that the supposed Design of *Halstead's* bringing the late Duke of *Ormond* into *England*, is only proved by Hearsay. One of the Crew belonging to the Ship in which he went, has deposed, That it was the common Report at *Bilboa*, that *Halstead* came there on that Errand.

How far common Fame is to prevail, I submit: But if this Hearsay were true, is every Person who was an Hour with this Gentleman before his Departure, supposed to be privy to this Project? And what a strain'd Construction is it to insinuate, The Bishop of *Rochester* knew of his Intention, because he received a Visit from *Halstead*, who was a Tenant under his Bishoprick? And this is the more
extraor-

extraordinary, since it has not been so much as pretended, that any Correspondence has passed between the Reverend Prelate and the late Duke.

They then produced Letters directed to one *Dumvill*, which were decyphered. And Mr. *Wills* was examined to prove, that they were rightly and justly explained.

My Lords, It very well deserves your Lordships Consideration, how far this kind of Evidence is to be admitted: It has appeared to your Lordships by the Oath of Mr. *Wills* himself, that it is an Art which depends upon Conjecture; for this Gentleman has confessed, that every Man is liable to a Mistake in this, as well as in other Sciences. He tells you, that he and his Brother Decypherer varied in One or Two Instances; he allows, that the *Chasms*, which they were forc'd to leave in those Letters, might alter the Sense of them. And, therefore, I cannot but think, that an Accusation grounded on such Proofs, is uncertain and precarious.

The Person who is the Decypherer is not to be confuted, and what he says must be taken for granted, because the Key cannot be produced with Safety to the Publick; and consequently (if his
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Conjectures be admitted to be Evidence) our Lives and Fortunes must depend on the Skill and Honesty of Decyphers, who may with Safety impose on the Legislature, when there are not Means of contradicting them, for want of seeing their Key.

My LORDS, in the Case of *Coleman*, the Key was printed, as has been well observed by the Council at the Bar, and I am very much surprized, that Gentlemen of such Abilities and Integrity, as the Members of the *Secret Committee* in another Place (who were so exact as to print the *French* Originals to the translated Letters, that the World might see how just and candid the Prosecutors of the Plot were) did not, for the Satisfaction of the Publick, permit us to see the Key in Print, on the Truth of which depends such a Chain of Consequences.

I own myself entirely ignorant of this 'Art; but, as I should be very far from condemning a Man on my own Conjecture, I should much less do it on the Conjectures of others.

The greatest Certainty human Reason knows, is, a Mathematical Demonstration; and were I brought to your Lordships Bar, to be try'd upon a Proposition of Sir *Isaac Newton's*, which he, upon Oath,

Oath, should swear to be true; I would appeal to your Lordships, Whether I should not be unjustly condemned, unless he produced his Demonstration, that I might have the Liberty of enquiring into the Truth of it, from Men of equal Skill?

I cannot think any Man will allow Evidence of this Nature to be good; but if in this Case relating to the decypher'd Letters to *Dumvill*, your Lordships should admit it, there is nothing mentioned in them that can affect the Bishop, neither is he at all nam'd in them, but they are only brought to prove the Conspiracy in *general*.

The Examinations of Mr. *Neyno* are the next Points that are laid before your Lordships; and, indeed, I must do the Gentlemen at the Bar the Justice of saying, that they forbore mentioning any thing of them, when they open'd the Charge.

They were so sensible, that such Proofs could not have the least Weight to affect the Bishop; that tho', in the Case of Mr. *Kelly*, they were produced against him, as very material to support that Bill, yet they did not think proper to name them against the Bishop; which, I am thoroughly persuaded, is owing to what appeared at your Bar by the Examination

mination of Mr. *Bingley*, and the universal Opinion which every Person seemed to have of the Villainy of Mr. *Neyno's* Transactions.

My LORDS, these Examinations were never sign'd by the Person, neither was he ever examin'd to 'em upon Oath; so that, were they of Consequence, and he a Person of Credit, they could not be admitted to affect any Person whatsoever, in any Court of Justice or Equity. I don't mean, that they could not be read according to the strict Rules of *Westminster-Hall*, which is admitted on all Sides they could not; but I dare affirm, that no Credit can be given to 'em on any Account whatsoever.

The Person was closely confin'd, and consequently in the Hands of the Government; so that he was at that time under the greatest Apprehensions, which might, in some Measure, prevent him from speaking Truth, with that Sincerity and Candour, of which every Person ought to be Master, when he is examin'd on Matters of such nice Nature.

Tho' these Papers were entirely given up by the Council for the Bill, yet the Extract of them was read, and they are the visible Foundation of this Charge; and if they are insignificant, the whole
Accu-

Accusation falls to the Ground : For the whole Proof of the Bishop's dictating to Mr. *Kelly* depends on Mr. *Neyno*'s bare Affirmation.

The whole of what *Neyno* says, or is supposed to say, is, That Mr. *Kelly* told him he wrote the Bishop's Letters for him; Mr. *Kelly* denies it, and Mr. *Neyno* was so conscious, that he had been guilty of many Crimes, that he endeavour'd to withdraw from Justice, and the Providence of God, it is said, intercepted him.

My LORDS, if you will consider the Improbabilities of this Evidence, altho' it were upon Oath, and signed by him, it cannot be supported. He tells you, that he was intrusted to draw up Memorials to the Regent; yet none of those have been produced; and yet it is apparent the Copies of them might with Ease have been obtained, if he had been as thoroughly pressed to deliver them, as he was to declare he wrote them.

These Memorials, he says, were wrote by the Order of Mr. *Henry Watson*, whom he takes to be the late Earl *Marshall*: And I am certain your Lordships don't think that Fact material, when you came to a Resolution, That the Bishop of *Rochester* should not be at Liberty to ask, if Enquiry was made of the said *Neyno*,
or

or if he gave any Satisfaction to the Lords of Council, touching that important Fact of *Watson's*, whom he took to be Earl *Marshall*, lying with him several Nights.

It was very well observed by a learned Gentleman at the Bar, That nobody can believe the late Earl *Marshall* would have reposed so great a Confidence in a Person who was entirely a Stranger to him, and of such little Note; and the *Jacobite* Party must be in a low Condition, when they make use of such a Creature to write Papers of that Importance.

There is so much Improbability in this and other Points, and so much Contradiction in several Parts of his Examinations, that they appear to me, and must to all reasonable Men, as the Dictates of Fear, and not agreeable to Truth.

He mentions, that the Reverend Prelate (for such I still may call him) had some Favours offer'd him by the Court; but that cannot be true, and must be added to the rest of these Absurdities.

But, my LORDS, what, in my Opinion, clears up all these Matters, and makes it impossible for me to give the least Credit to this, or any other Part of the Charge, are, the several Testimonies of *Bingley*, *Skeen*, and *Stewart*.

I must

I must observe to your Lordships, that the two first Persons, *Bingley* and *Skeen*, are actually now in separate Custodies, and consequently could have no Communication one with another. The third is at Liberty, but his Testimony is so thoroughly supported by Mr. *Gordon* and Mr. *Kynaston*, that no Doubt can arise as to the Veracity of it.

These Gentlemen, who are in the Hands of the Government, are under Hopes and Fears; and therefore it is certain, when they speak a Language, which, perhaps may be disagreeable to those on whom they at present chiefly depend, it must be the Spirit of Truth that prevails.

Mr. *Bingley* was before us in the Case of *Kelly*, and was also examin'd at the Bar of the House of Commons, tho' not upon Oath; and tho' he has been more severely treated, as he told your Lordships, and more strictly confin'd since his first Examination, yet he has persisted in his Story; and tho' he was so long at your Bar, and so many Questions put to him, yet he never varied in any one Circumstance, but appeared consistent thro' the whole Course of his Behaviour.

I shall not detain your Lordships with recapitulating his whole Evidence, for I did

did it very fully on a former Occasion. But your Lordships will remember, he told you, *Neyno* abounded in Money, which *Neyno* said (after he was apprehended at *Deal*) an *Honourable Person* (and on this Occasion I hope I may name him) *Mr. Walpole*, gave him: And more particularly he mentions Fifty Pounds, which *Neyno* said he received the Night before he went to *France*.

Bingley told your Lordships, *That Neyno had assured him, he used to meet this Honourable Person in the Stable-Yard at Chelsea*: And, my L O R D S, The Errand on which he was going to *France*, was, To discover some Secrets relating to Cyphers, which he would have engaged *Bingley* to have done for him; and particularly, to get them, if possible, out of *Mr. Kelly*; Which, he said, could be obtain, would be of great Advantage to him.

That *Neyno* had declared to him, *He would be even with Mr. Kelly, before he was aware of it*, or Words to that Effect; and that *Mr. Kelly* always seem'd averse to any Acquaintance with *Mr. Neyno*, of whom he entertained a mean Opinion.

That *Neyno's* Father refused him Money, which makes it highly probable that his Poverty was the Occasion of his Villainy;

lainy; and that when he was taken at *Deal*, he had declared to him, *Mr. Walpole expected to find the Plot about him; and since Mr. Walpole could not, he must make one for him.*

Neyno told *Bingley*, *That this Honourable Person had vowed Destruction to the Bishop of Rochester, by saying, He would pull down the Pride of this Haughty Prelate;* which is sufficient to convince your Lordships how little Regard ought to be had to the Hearsay Evidence of so false a Wretch.

Mr. Bingley says, That Part of this Account he had given to the Lords of the Council; and I could have wished, that his Examination (as well as some others to the same Purpose, which were taken about the same Time) had been laid before the Parliament.

Mr. Skeen, who is also in Custody, has deposed, That he lay in the same House with *Neyno*, and had some Conversations with him.

That *Neyno* had told him, *What he had said of the Bishop of Rochester was intirely false.* And,

That Mr. Walpole had offer'd him a considerable Annuity to turn Evidence; and had given him Instructions before he was called in to the Lords, what Questi-

ons would be asked him, and what Answers he should make; and threatned him with Newgate, if he would not comply.

Skeen says further, That *Neyno* swore (and I hope the Reverend Bench will, in such a Case, permit me to repeat the Words) by God, there was two Plots; one of Mr. Walpole's, against the Protesting Lords, and one of his, to bite Mr. Walpole of Money: And this seems to be the only Time, that ever Mr. *Neyno* averr'd any thing upon Oath.

To convince the World, what a Creature this *Neyno* was, he tells *Skeen* further, That once at Lord Townshend's Office, he had a great Inclination to have stabb'd the Chancellor of the Exchequer. He tells you, That *Neyno* had wrote a Paper to declare, That all he had said of Lord Orrery was false.

My LORDS, The next Witness was Mr. *Stewart*, who was unfortunately in Custody when *Neyno* was brought to Town from Deal.

Stewart says, That he slept the second Night with *Neyno*. That *Neyno* had told him what he had said of the Bishop, was false; and that Mr. Walpole had offered him a great Sum of Money, if he would swear to what he said, and turn
Evi-

Evidence, which he declar'd he could not do.

That Mr. Walpole had taken him into another Room before he was examined, and told him what Questions he would probably be asked, and what Answers he should give.

He says, That Neyno told him also, *That he had like to have kill'd Mr. Walpole, and so put an End to the Plot: And that Mr. Walpole had given him a Paper of Directions, which he was to answer, in order to be a Witness against the Protesting Lords.*

As a Confirmation of his Testimony, Stewart says he told this to Mr. Gordon before Mr. Neyno was drowned, and to Mr. Kynaston before the Meeting of the Parliament.

Mr. Gordon confirms this Part of his Evidence, and assures your Lordships, that he had heard it from Stewart before the Death of Neyno. And Mr. Kynaston, a Gentleman of an undoubted Character, lately a Member of Parliament for Shrewsbury, has assured your Lordships, that he was acquainted with Stewart's Account of Neyno before the Meeting of the Parliament; and adds this Circumstance, That when in the Appendix he saw those Six Questions printed,

he shew'd 'em to *Stewart*, who seemed rejoiced, and said, *You see, Sir, what I told you is true.*

Such concurring Testimonies from Persons kept so separate, and who are speaking against their own private Interest, must have the greatest Weight, and must at least prevent any rational and impartial Person from giving the least Credit to the bare Hearsay of this *Philip Neyno*.

If any Doubt could remain, as to the Validity of this Testimony, it is sufficiently confirm'd by the Persons brought to disprove it.

The Chancellor of the Exchequer himself does not pretend to deny, that *Neyno* told these things, but only adds other Circumstances to convince you of *Neyno's* Villainy; and assures you, That at the time he was receiving Favours from him, he was thoroughly convinc'd he intended to cheat him, which was the Occasion of his being apprehended.

He own'd the Transactions between them before *Neyno* went to *France*, and particularly the Money mentioned by *Bingley*, which are Proofs that *Neyno* must have disclosed these Secrets, since they could not come from Mr. *Walpole*, and he and *Neyno* only were privy to it.

Mr.

Mr. *Walpole* has shewn your Lordships the foul Draught of the Questions mention'd by *Stewart*; and when he denies that Part of *Neyno's* Declaration relating to the Instructions given him before the Examinations, he owns, he was twice alone with him; once the first Night of his being brought to Town, and the second time, when he gave him the Paper of Directions, which might be Foundation enough for *Neyno* to frame so notorious a Falshood.

The Witnesses brought by the Council for the Bill to the Character of Mr. *Bingley*, seem rather to confirm it than otherwise; and all agree, they never heard any thing against his Morality. — They indeed have said, he bore the Character of a *Jacobite*, and suffered for having dispersed a Libel: But Mr. Baron *Gilbert*, who was his Judge when that Punishment was inflicted on him, has told your Lordships, that his private Life was not vilified at his Tryal, and that neither Perjury or Forgery was ever laid to his Door.

Tho' the Punishment he suffered was the Pillory, yet it is the Crime, and not the Punishment, that makes the Ignominy; and for this I can appeal to the learned Judges.

In order to destroy the Evidence of Mr. *Skeen*, they produced one *Pancier*; who tells you, that *Skeen* had revealed many Secrets to him relating to the Plot; and particularly of a Military Chest, which was collected to carry on these supposed Designs, and support the *Jacobites*.—But I presume every Body who heard the two Persons at the Bar, could not but remark the Steadiness with which Mr. *Skeen* denied these Asseverations, and the Confusion with which the other affirm'd them.

Mr. *Pancier* seem'd to drop something which intirely destroys any Credit that could be given to him, by saying, That he had owned to Mr. *Skeen*, that he was a Friend to this Administration; and yet has sworn, That after such a Declaration, *Skeen* had still persisted in his Story, and revealed some Part of this Intelligence to him. How far this is probable, your Lordships are the best Judges.

Mr. *Pancier* goes farther, and tells you, That Part of this Conversation happened in St. *James's* Park, in the Presence of one *Dufour*. This *Dufour* was in the Hands of the Government, and I can't conceive why we have never seen him, or his Depositions, when it would have been so easy to have brought this
corro-

corroborating Witnefs to Mr. *Pancier's* Testimony.

I can't but think, That the not producing this Man's Evidence is a strong Circumftance to convince your Lordships he did not agree in the fame Story with Mr. *Pancier*.

They alfo produced *Skeen's* Attainder for the *Preston* Rebellion; but there have been many Acts of Grace fince, fo that he is capable of being an Evidence; and there has nothing appeared to traduce his Character as a Man of Morals.

In order to fhew your Lordships, that *Neyno* could not poffibly make thefe Confessions to Mr. *Skeen* and Mr. *Stewart*, the Council for the Bill maintain, That they will prove *Neyno* and the Prifoners were not together after the firft Night.

This, my Lords, would be very material, but I think it appears by the Proofs brought to fupport this Affertion, that they frequently have converfed one with another.

The firft Witnefs they call'd, was Mr. *Crawford* the Meflenger, in whose Houfe the Prifoners were in Cuftody; and, my Lords, I can't but fay, it feems very odd, they fhould bring a Man to fwear he had done his Duty. He has told your Lordships, That Lord *Townfhend*

had given him Orders, that *Neyno* should be close confin'd; and if, after that, it should appear, that he had neglected such Directions, there is no question but that he instantly, and deservedly, would have been removed out of his Employment.

This Messenger, in this Situation, tells you, that after the first Night they never convers'd, to the best of his Knowledge: That Mr. *Skeen* call'd *Neyno* a Rogue of an Informer, and spoke in very hard Terms of him; which I indeed think it appears the Fellow well deserv'd.

Crawford says, That Mr. *Neyno* had some Paper, two Sheets of which he found missing. He likewise swears, that Mr. *Stewart* lay upon the Stairs, and owns he had at that time two Servant-maids.

Mrs. *Crawford*, his Mother, swears, That, to the best of her Knowledge, the Prisoners were never together: That she kept the Keys of the Rooms herself, but used to send up the Maid, *Hannah Wright*, with the Dinner.—Your Lordships will observe, that both this Woman and her Son swear to the best of their Knowledge only, and are from positive Witnesses.

Hannah Wright, when she was first call'd, spoke in the same Language with them,

them; tho' she afterwards recollected herself better.

When the Bishop came to rejoin, *Francis Wood*, *Thomas Wood*, and *Mr. Russel*, severally say, That this *Hannah Wright* had declared to them, that she used to let the Prisoners converse together whenever she had an Opportunity, which was; when *Mr. Crawford* and his Mother were out of the Way; and that she used to stand upon the Stairs, and give Notice when any Person came, that they might retire into their several Rooms. And the other Maid, whose Name is *Christian*, has deposed, That *Hannah* gave the Key of *Neyno's* Room to *Stewart*, and several times desired *Stewart* to go up to him, and that they were together an Hour or more. And when *Hannah* was call'd a second time, she own'd she was turn'd away for Suspicion of having help'd *Neyno* in his Escape: That she has left *Skeen's* Door open, who lay near *Neyno*; and that there was a large Hole in *Neyno's* Door, thro' which they might converse.

She said, That *Neyno* gave her a Paper, which she was to convey for him, but that it was taken out of her Bosom, and burnt by one of the Prisoners.

When

When Mr. *Stewart* said, That he sat upon *Neyno's* Bed the second Night, and lay in the Garret where there was a Partition, but a Communication between 'em, *Hannah* said, she could not be positive to that, but believes it true.

Mr. *Crawford*, when he was call'd to that Point, according to his usual Custom, denies it to the best of his Knowledge.

Your Lordships will now judge, whether the greatest Credit is to be given to the Belief of a Messenger and his Mother, who are swearing, that they did their Duty, or to the positive Oaths of *Skeen*, *Stewart*, *Gordon*, *Kynaston*, *Francis Wood*, *Thomas Wood*, *Russel* and *Christian*, confirm'd by the Confession of *Hannah Wright*, when she came to be cross-examined and confronted.

This, my LORDS, concludes what has appear'd at the Bar, relating to Mr. *Neyno* and his Transactions, and I am pretty certain, every impartial Body must agree with me, That so far from giving the least Credit to what he says, there have appeared such Circumstances in the Transactions which are now come to Light, that must make the greatest Caution necessary, before we believe any other Part of the Charge.

Your

Your Lordships will take Notice, that Mr. *Crawford* confesses Mr. *Neyno* had the Use of Paper, and found two Sheets missing; and *Hannah Wright* owns she had a Paper from him, which was burnt by one of the Prisoners. This, my Lords, undoubtedly was the Paper relating to Lord *Orrery*, mentioned by *Skeen* in his Evidence.

My LORDS, I am now coming to the great and only Foundation remaining to support this Bill: If *Neyno's* Hearsay is not to be believ'd, which is the Proof that was offered to shew, that Mr. *Kelly* was the Bishop's Secretary, and used to write for him; and particularly, that the Bishop directed three Letters, which were wrote in *Kelly's* Hand, and transmitted to *France*, under Cover to *Monf. Gordon le Fils*.

Every body must agree, that unless the dictating of these Letters be clearly prov'd, the Bishop ought to be acquitted; and when, hereafter, this great Affair comes to be canvass'd by Posterity, it will stand or fall as this Fact shall be strongly made appear.

They first read *Plunket's* Cypher, and Mr. *Vanradike* attests it to be his Hand-writing.

When

When this Piece of Evidence was offer'd, People were at a Loss to know what they intended to make of it, and little thought, that they should be drove to make use of *Jackson*, standing for the *Pretender* in that Cypher, to shew that the Letter directed to *Jackson* (one of the Three beforementioned affirm'd to be dictated by the Bishop of *Rochester* to Mr. *Kelly*) was to the *Pretender*; I shall take Notice of this extraordinary Proceeding when I come to consider those Letters. I shall only say now, That were Mr. *Plunket's* Correspondence to be regarded, the Plot is of a very deep Nature; for he has had the Impudence to insinuate the most ridiculous Aspersions against the Greatest Men amongst us.

Three of his Letters were read out of Cypher, in two of which Mr. *Johnson* is named, that is, Mr. *Kelly*; but neither Mr. *Kelly*, or the Bishop of *Rochester* are allowed Places in his Cypher, and consequently were not in an Association with him. *Johnson* is only spoke of by *Plunket*, when he is mentioning Domestic News, and in no other manner than might be in every News-Letter that went by the General Post.

My LORDS, in order to shew that the three Letters sent under Cover to
Mr.

Mr. *Gordon le Fils*, were Mr. *Kelly's* Hand-writing, which they very justly thought was necessary to be made appear, before they proved that the Bishop was concerned in them; they produced a Letter of the 20th of *August*, which a Clerk of the Post-Office swears was stopt at the General Post-Office.

To convince us this Letter is Mr. *Kelly's* Writing, *Hutchins* the Messenger says, to the best of his Knowledge, it is Mr. *Kelly's* Hand; and at the same time owns he never saw him write till after his Commitment, and then he stood by him while he wrote two Letters, one to Lord *Townshend*, the other to Mr. *Dela-faye*; those Letters were produced at the Bar, and therefore every Lord in the House is as good a Judge of the Similitude as the Messenger, who has lately been restored into Favour, on what Account I cannot tell.

If Mr. *Kelly*, during his Confinement, counterfeited and disguised his Hand, then the Messenger's Evidence can't be of any Weight; and if he wrote as usual, then every Person is equally capable of framing an Opinion of it who sees the Three Letters.

The next Witness is *Malone*, who swears she has seen him direct Letters, but

but can't tell how long since she saw him write, nor how often.

The Persons who contradict this Evidence are so positive, so clear, and so concurring in their Testimony, that no Doubt can rise upon it.

Mr. *Bingley*, when he was shewn this Letter, swears it is not like his Hand-writing.

Mr. *Brown*, a Peruke-maker, well vers'd and acquainted with his Writing, when he was shewn the Letter of the 20th of *August*, and the Date of it hid by the Council for the Bill (so that he could not know what Paper it was before him) swears, it is not his Hand-writing: When the Letter to *Delafaye* was produced, he declared That was his Hand-writing: When another Paper was shewn (I think it was the Marriage Articles) he said That was more like his Hand-writing than that of the 20th of *August*, but he did not believe it was wrote by him; and when they question'd him upon the Letter to Lord *Townshend*, he swore it was Mr. *Kelly's* Hand-writing.

Mr. *Pickering*, who had Occasion to know Mr. *Kelly's* Hand, having lent him some Money, and received several Notes and Letters from him during that Transaction, does agree with Mr. *Brown* in every

every Particular, and most minute Circumstance; which is a clear and evident Proof, that this Letter of the 20th of *August* was not wrote by Mr. *Kelly*.

The Difference, which they tell your Lordships, they observe between the Cut of the Letters in that of the 20th of *August* and the others, is, That one is longer and straiter, the other wider and shorter, which is obvious to any body that will look on both, and is a Confirmation of their Veracity.

The Prosecutors of the Plot might have prov'd this better, and not have been driven to the Testimony of a Messenger to support this great Foundation of their Charge. It is notorious what Search they have made for Evidence of all kinds; and as Mr. *Kelly* was educated in a College, they might easily have found credible Witnesses to that Point, if those Letters had been wrote by him.

In the Case of Similitude of Hands, when it has been the most clearly and positively proved, as on the Tryal of Colonel *Sidney*, it has been esteemed to be cruel, that a Man should be convicted on such kind of Evidence; and the Attainder of that unfortunate Gentleman was reversed for that Reason.

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In *Sidney's* Tryal, his Bankers swore, they used to pay Bills drawn by him in the Hand-writing they were shewn, and no Persons could contradict them; and yet the Sentence against him was a great Blemish to that Reign. The Great Lord Chief Justice *Holt*, in the Case of *Crosby*, refus'd to admit it; and the Lord Chief Baron *Bury*, on *Francia's* Tryal, follow'd that Example.

At present, give me Leave to say, there is no Evidence that it is Mr. *Kelly's* Hand, and there is positive Proof that it is not—Therefore, we who live under so equitable, just, and happy a Government, can never convict a Man, in these Days of Liberty, on such insufficient Conjectures.

They next produced the Three Letters, which, they would insinuate, were wrote by *Kelly*, and dictated by the Bishop, which were mentioned by me before, and which were sworn by the Clerks of the Post-Office, to have been stopt going to *France*.

The Bishop desired to examine them relating to these Letters being detain'd, and would fain have known who took them out of the Mail; this, he thought was proper for him to demand, since he seem'd to insinuate, That he question'd
their

their ever having been in the Post-Office. But your Lordships would not suffer any Enquiry to be made on this Head, and voted it inconsistent with the publick Safety, and unnecessary for the Defence of the Prisoner, to permit any further Questions to be ask'd in relation to this important Affair.

These honest Gentlemen, the Clerks of the Post-Office, have deposed further, That the Papers produced are true Copies of the Originals detain'd by them; tho' at the same time they confess, they never examin'd them after they had copied them.

They positively swore further, That the Originals were of the same Hand with the Letter of the 20th of *August*, tho' they affirm this barely upon Memory, never having mark'd any Letter, in order to know it again; and one of 'em declared upon Oath, That he did not believe there could be such an Imitation of *Kelly's* Hand, as could deceive him, tho' the whole House agrees, That Hands may be counterfeited so as to deceive the Men that wrote them.

They own, they never compared two Original Letters between the 24th of *August* and 20th of *April*, tho' they might have stopp'd a Letter one Post,

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without Prejudice to the Government, in order to be more certain in their Evidence.

Thus, my Lords, should this Bill pass, this Great Man must fall by the Dependence this House must have on the Memory of these Clerks.

Mr. *Lewis*, who has long serv'd in the Secretary's Office, tells us, That frequently Letters and Seals used to be counterfeited; and in a more particular Manner, by one *Brocket*, who excelled so much in this Art, that he has cheated many Persons, and has so far deceiv'd 'em, that they have not known his Copy from their own Originals.

When these Letters, thus attested, came to be read, they are in Cypher; so that it must again depend on the Honesty of a Decypherer, before they can possibly be made Treasonable.

Mr. *Wills* declares, they were truly decyphered, according to the best of his Judgment and Skill; and more particularly, that the Number 1378, which is subscribed to the Third Letter directed to *Jackson*, stands for the Letter *R*. But when some Lords ask'd him a Question, which perhaps had he answered, might have prov'd him to be under a Mistake, he refuses to give an Answer, either

either in the Affirmative or Negative, for fear of revealing his Art. Your Lordships thought proper, to prevent any further Cross-Examinations of this Gentleman, by a Resolution.

Mr. *Wills* says, he shew'd these Letters decyphered to my Lord *Townshend* before he communicated them to Mr. *Corbire*, who is a Clerk in the Secretary's Office, and then he says, That Mr. *Corbire* and he agreed.

Before these Letters can yet prejudice the Bishop, the Cant Names in them must be explain'd according to the Key which the Prosecutors of the Plot have made; and in order to it, we must believe, that *Jackson* stands for the Pretender, because Mr. *Plunket* gave him that Title in his Cypher. Can there be a greater Absurdity than to imagine a Person of the Bishop of *Rocheſter's* Capacity should borrow a Name of that Consequence from so insignificant a Wretch as *Plunket*, who it does not appear ever saw him?

Indeed, the Council for the Bill did not read these Letters against the Bishop, since they had no Proof of his dictating of them, and they were only read on account of the general Conspiracy.

I must observe, it was a great Artifice of these learned Gentlemen, whenever

there was a Piece of Evidence to which the Bishop objected, they constantly pretended, they produc'd it to the *Plot in general*; for they knew it could not be admitted against the Reverend Prelate; but yet when they came to *sum up*, they applied them to *this Particular Case*; which is not agreeable to that Candour that is necessary on such Occasions.

If your Lordships should be of Opinion, that *Kelly* wrote 'em; that they *were stopp'd* at the Post-Office; that they *were duly copied*; that they *were truly decyphered*, and the *Cant Names explain'd*; yet *still* this cannot affect the Bishop, unless it be fix'd upon him *that he dictated* them. Two of them were sign'd *Jones* and *Illington*, and to induce your Lordships to believe the Bishop was guilty, as they affirm'd, they endeavour to prove those Names *must* denote *him*. And, in order to it, they read some Letters affirm'd in the same Manner (as before mention'd) by the *Clerks* of the Post-Office, to be his Hand-writing; but first they read a Cypher taken upon Mr. *Dennis Kelly*, and sworn by the Messenger *Hutchins* to be wrote by *George Kelly*.

I can observe nothing upon this Cypher, but that the Bishop of *Rochester* is not mention'd in it, which seems very extraordinary,

traordinary, and is not a Proof of the Reverend Prelate's being ingaged in a Conspiracy.

The Letters they read of Mr. *Kelly* are of no Moment, and are only calculated to fix the Names of *Jones* and *Illington* upon the Bishop.

They give an Account of his Lady's Death, the Bishop's own Illness, his going to and from *Bromley*; and in some of them, the Dog *Harlequin* is mentioned.

It seems repugnant to Reason, that in a Treasonable Correspondence of this Importance, a Gentleman should venture his Life to give an Account of the State of one Person's private Affair, and entertain his Friends Abroad with no other Business in such a Tract of Time.

In the Letters directed to Mr. *Andrews* at the *Dog and Duck*, which are proved to have been received by Mr. *Kelly*, *Jones* and *Illington* are not named, and those in which we find them, were such as pass'd through the Post-Office, and were attested like those under Cover to *Gordon le Fils*.

It is not likely, that in a Transaction of so secret a Nature, Mr. *Kelly* should take such Pains to give such a Description as might give the least Room for a Suspicion that the Bishop was concerned;

much less to have mentioned so many Particulars, as may be suggested he has done, if there could be any Possibility of wresting the Meaning of *Jones* and *Illington*, and interpreting of them to mean the Bishop.

William Wood, the Bishop's Coachman, is brought to prove the particular Times of the Bishop's being in or out of Town, in order to shew, that they agree with the Times mentioned of *Jones* and *Illington* in the intercepted Correspondence; and he refreshes his Memory by a Book of *Memorandums*, which might have been destroyed, if it had been apprehended by the Bishop's Friends, that such Evidence could affect him.

What they next attempt, was to shew, That the Dog brought over by Mr. *Kelly* from *France*, and which Mrs. *Barnes* swears, That he once told her was for the Bishop of *Rocheſter*, was a strong Circumſtance to fix the Name of *Illington* on the Bishop.

My LORDS, Mrs. *Barnes*, who is under the Cuſtody of a Meſſenger, is the only Witneſs to this Point, and what ſhe ſays, is only Hearſay from *Kelly*: She owns, that *Kelly* never told her ſo but once, and that was when ſhe thought to have kept it for herſelf: And, indeed, it
might

might be barely an Excuse to prevent his parting with it; for he had promised to bring her such a Present before he went to *France*.

She owns, that, to her Knowledge, the Bishop never saw the Dog, nor sent any Message about it, which seems to be very extraordinary, that if this Present was of such great Consequence, he should not have had Curiosity enough, at least, to see it: An Affidavit was read from *Bermingham*, a Surgeon in *Paris*, which says, That he gave this Dog to Mr. *Kelly*, for Mrs. *Barnes*.

Before I leave this Circumstance of the Dog, it is proper to observe another great Improbability, which is, in a Letter wrote a few Days after the Death of the Bishop's Lady, it is said, Mr. *Illington* was in great Tribulation for the Loss of poor *Harlequin*; and can it be supposed, That at a Time when the Bishop was in Affliction for the Death of his Wife, he should indecently discover so much Grief for such a Trifle?

I think this is sufficient to convince any Person whatsoever, That this Correspondence is of a very extraordinary Nature.

Mrs. *Barnes* has told your Lordships, That Mr. *Kelly* came from *France* the 11th of *April*.

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My LORDS, I am now come to the only Piece of Evidence that seems particularly levelled at the Bishop: Which is, The Proof that has been given of the Dictating those Letters; and unless this be clearly and plainly made appear, I cannot conceive that any thing can be laid to this Prelate's Charge.

Unless it is evident, that the Bishop did dictate, as alledged, I cannot think any of your Lordships can vote him Guilty according to the Rules of Justice; for no Man is safe, either in his Life, Liberty, or Fortune, if he may be deprived of either, on account of a Correspondence in which it does not appear he was concerned. Tho' your Lordships should so far credit the precarious Evidence, at your Bar, as to believe, that *Jones* and *Illington* stood for the Bishop of *Rochester*; yet, unless it is plain, that it was with his Privity, it is certainly impossible this Bill should pass; and if it should, it will hereafter be in the Power of any two Men, one at Home, and one Abroad, to ruin the most innocent Person, by entering, without his Knowledge, into a Correspondence of this Nature.

If the being named in Treasonable Letters, be a Crime, though it does not appear it was with the Privity of such Persons,

Persons, I will submit to your Lordships, how far Men of the greatest Zeal to the present Establishment, are to be affected by Mr. *Plunket's* Insinuations.

No Man ought to suffer for the Suggestions of another Person, unless it appears he has given great Foundation for them. And in this Case, would it not be most extraordinary and most unjust, to punish this Reverend Prelate, for a Crime which there is no Proof he ever committed? I mean, the Dictating of these Letters. And if, on the other Hand, the unfortunate Circumstances of his Affairs has furnished him with Means of shewing, beyond Contradiction, that he could not be concern'd in the Letters of the 20th of *April*; That for a considerable Time before, he could not see Mr. *Kelly*; and that there never was an Intimacy between 'em: Then, My LORDS, I hope, every Man who gives his Vote for the Rejecting this Bill, has the strongest Evidence of his Side to support his Opinion; and need not be afraid or ashamed to own it here, or any where else.

This Part of the Evidence being of great Consequence, I must beg your Lordships Attention, whilst I recapitulate the Heads of it as clearly and distinctly as possibly I can.

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The first Witness they call'd, was *Flower*, a Chairman, who swears, That he carried *Kelly* twice or thrice to the Deanery ; but that the Bishop was never at Home, and consequently did not see him. His Partner swore, He had carried him, with *Flower*, one of those Times.

The next Person produced, was a Porter, one *Vanlear*, who deposed, That he went about *Christmas* was Twelve-Months, twice, with Messages from *Kelly* to the Bishop: The last of which Times, he carried some Beaver Stockings ; That the Bishop sent for him up Stairs, gave his Service to Mr. *Johnson*, and thank'd him for his Present.

Mrs. *Kilburne*, at whose House Mr. *Kelly* lodged, says, That once a Servant came from the Bishop, to know how Mr. *Johnson* did, and was sorry he could not have his Company at Dinner.

William Wood the Bishop's Coachman, says, He once stopp'd in *Bury-Street*, but does not know for what ; and that the Bishop sent a Servant somewhere, who presently returned. And,

Lloyd, who keeps the *Star and Garter* in *Palace-Yard* has told us, That *Neyno* once came to his House, and told him, He staid for an ingenious Gentleman, who

who was gone to the Bishop of *Rochester's* House.

This, my LORDS, is all the Proof they offered of this Intimacy, from which they would infer, That the Bishop dictated these Letters, and is consequently Guilty of the Crimes laid to his Charge.

If your Lordships consider what was produced on the other Side, I am sure you must agree there is no Foundation for this Assertion.

Mrs. *Kilburne* denies, to the best of her Knowledge, that the Bishop ever came to her House, or that his Coach ever stopp'd there, or ever was sent for *Kelly*.

That *Kelly* did not go out of Town, from the Time he came from *France*, 'till he was taken up, the 19th of *May*, and never lay out of her House one Night.

This, my Lords, was confirm'd by her Maid *Anne Ellis*.

Mrs. *Barnes* says, she never heard of any Message from the Bishop to *Kelly*, nor ever had any Conversation with him about the Bishop.

William Wood the Coachman, who lived with the Bishop Four Years, has declared, that the Bishop of *Rochester* never sent him with his Coach to *Bury-Street* to fetch any Person from thence: That
there

there was no Stranger at *Bromley* for a Fortnight before his Lady died, which was the 26th of *April*; That no body could come in a Coach, or on Horseback, but he must know it; That he never saw such a Person as Mr. *Kelly*, 'till he was shewed him at the *Tower*; and, That the Bishop went ill of the Gout to *Bromley* the 12th of *April*, and did not return to *London*, 'till the 7th of *May*.

Malone, Mrs. *Barnes's* Servant, says, That she never saw the Bishop, or any of his Servants, with Mr. *Kelly*.

Thomas Grant, who has been the Bishop's Servant Nine Years, has declared, That the Bishop went to *Bromley* the 12th of *April* very ill of the Gout, and that no Stranger could come to him, from the Time he went to *Bromley*, 'till after his Wife's Death; That one or other of the Servants always sat up with him: And that no Person could visit him, but they must know it; for they were either in the same Room, or the next Room to him; and that no Stranger, except Dr. *Aldrige* and the Apothecary, came near him. *Grant* says, That he was forc'd to go to Town to attend at the *Westminster* Election of Scholars on the 21st of *April*, but left
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Beauchamp there, who came down for that Purpose on the 18th.

Beauchamp and *Steen*, who were the Two Servants that attended with *Grant*, swear the same thing.

Susannah Harvey, *Sarah Jones*, *Thomas Farnden*, *Elizabeth Higginson*, and all the Servants agree, That they never heard of any Person by the Name of *Kelly* or *Johnson's* being with the Bishop. And

Mrs. Inglis, who took the Names of the Bishop's Visitors for many Years, does not remember that she ever heard of such a Person as *Kelly* or *Johnson*. And I doubt not, but that every Lord must allow, that it is not possible to have a more clear, a more strong, or legal Proof to a Negative, than this is.

I must observe to your Lordships, that most of these Servants have been in strict Custody, and severely used, particularly *Farnden*, and yet your Lordships see how unanimous they are in their Evidence; and their Testimony is so positive, that I cannot conceive any Person can suggest there was the least Intimacy between this Reverend Prelate and *Mr. Kelly*; and much less, that he could be with him to write the Letters that are dated the 19th of *April*.

Mr. Reeves

Mr. *Reeves* did, indeed, so far agree, as to be of Opinion, that they might have been wrote the 11th of *April*, which was the Day *Kelly* came from *France*: But, my Lords, Mrs. *Barnes* has deposed, He went to Bed the Minute he came Home, and lay there for a considerable Time. Besides, it is improbable, that Letters wrote the 11th, should not be sent 'till the 19th. But if any further Argument was necessary to confute this absurd Supposition, the Earl of *Sunderland's* Death is mentioned in the Letter to *Chivers*, and that Noble Lord died the 19th, at which Time it has been prov'd, Mr. *Kelly* was not with the Bishop.

The Bishop of *St. Asaph* did, at first, peremptorily contradict one Part of Mr. *Grant's* Evidence, by saying, He had received a Letter from the Bishop of *Rochester* at the Time when *Grant* has sworn he was so ill of the Gout that he could not write.

His Lordship positively affirmed, That he received this Letter on *Saturday* the 21st of *April* in the Morning, and saw *Grant* in *London* between Twelve and Two: But when it was proved that *Grant* did not leave *Bromley* 'till the Evening of that Day, and that another Person officiated for him as Butler in the Deanery,
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by Reason of his Absence, then the Bishop seem'd to think himself under a Mistake, and allow'd it might have been some time before.

His Lordship own'd, he never received a Letter from the Bishop of *Rocheſter* before nor ſince, and therefore was a Stranger to his Hand.

I could have wiſhed this Reverend Prelate had recollected himſelf more fully, before he had given his Teſtimony in a Matter of this great Importance to one of his Brethren.

There was another Witneſs examin'd, which was *Croſton* the Shoemaker, to prove, that *Talbot* (who was ſaid to have received the Three Letters directed to *Gordon le Fils*) was at that Time in *London*, when he was ſuppoſed to have been in *Boulogne*. *Croſton* ſwears he ſaw him in Town the 29th of *April*, and prov'd it by his Book.

There was another Perſon call'd, whoſe Name was *Donner*, that depoſed, *Gordon* own'd to him the receiving of this Pacquet ; but an Affidavit was produced from *Gordon*, in which he denies it. *Donner's* Evidence is only Hearſay, the other is poſitive.

My Lords, the Council for the Bill produced ſome Papers which were taken
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in the Bishop's Custody when he was apprehended, and endeavour to draw very ill-natur'd and forc'd Constructions from them.

The First was a Letter from the Duchefs of *Ormond*, in which she acquaints him, *That she had something to send him, which she could not trust to a better Hand*: Or Words to that Effect. And this they would pretend to insinuate, was some Treasonable Papers.

I appeal to all Mankind, Whether it is not very extraordinary to suppose, that the Bishop should be presumed to convey a Traytorous Correspondence thro' that Channel. Every body knows the Friendship which was between the Reverend Prelate and that Family; and it is not surprizing that this unfortunate Lady should think him a proper Person to consult, and intrust with her own Affairs. Therefore I can't think, that these general Expressions can at all affect him.

The next they read, is a Paper found, or pretended to be found, at the Deane-ry, subscribed to *Dubois*, but without Date: In this the Person who writes it, says, He received a Letter by Mr. *Johnson*, to which he return'd an Answer in his Hand.

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The Secret-Committee, at first, apprehended, that this was received by the Bishop, and thus it pass'd, 'till upon seizing a Letter wrote in the *Tower* by his Lordship, they found a Similitude in the Seals, which immediately inlightened them, and then it was presently said to have been wrote by the Bishop.

Then they wanted to fix this to be the Bishop's own Hand-writing, and they could find no other Way of doing it, but pretending there was a Similitude between the *E's* in this Letter, and those which the Bishop generally used. I believe it is the first Time that ever such an Argument was brought to prove that the whole Letter has been wrote by a Person; much less was it ever pretended to be offered to a Court of Justice against any Prisoner whatsoever. But, I believe, there is no Man acquainted with the Bishop's Hand, but sees it is not wrote by him.

They would also affirm, that when in this Letter the Bishop is supposed to say, That he returned an Answer in Mr. *Johnson's Hand*, it must be understood to be his *Hand-writing*; which, I must confess, does not at all appear to be a necessary Conclusion; for he might deliver his Answer into Mr. *Johnson's Hand*, which

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I think is more natural to suppose than the other.

Your Lordships must judge, how improbable it is, that the Bishop should keep such a Letter by him, which he wrote himself; or that, when such Care is taken as the Prosecutors of the Plot themselves say, for preventing any Person's discovering the Intimacy between Mr. *Kelly* and him, such a Secret should be trusted in Writing, and even without a Cypher——The Two Seals which gave this Turn, are *Cicero's* Heads, which are very common, and are to be found every where. They are one broke, the other whole, which must make it very difficult to judge of them; and it is allow'd, That, at best, it is but precarious Evidence.

If Mr. *Neyno* speaks Truth, when he said, The Bishop had Notice of the Storm that threatned him, I am certain, that this Paper, if it could have been apprehended of Consequence, would have been destroyed; but, I believe, it was impossible for him, or any-body else, to think it should meet with such an Explanation.

The next Letter they produced, which they seem to think material, was that which was seiz'd on his Servant going to
Mr.

Mr. *Morrice*: In this he says, That the Evidence of *Plunket*, and those People, could not affect him; but as he does not mention Mr. *Kelly*, they would have it presumed, that this is a Proof, that *Kelly* could have said something of him: But, I think, this must appear to be a very ill-natur'd Assertion.

Your Lordships will consider, he was then writing to his Son-in-Law; and therefore no great Accuracy was necessary.

In another Place, he says, That if they impeach'd him, he should remain in Prison for some Time; and this they would decypher to be an Implication of his Guilt.—But, in my poor Opinion, it is the Reverse: He seems to say, That if the Commons should be induced to send up an Impeachment against him, he was so satisfied of his own Innocence, and your Lordships Justice, that he thought the Confinement 'till his Tryal, would be the only Misfortune that could attend him. The Example of the Earl of *Oxford* was recent in his Memory, and might justly create in him a Fear of undergoing a long Imprisonment.

It is objected, That he, in this Letter, makes no Protestations of his Innocence: But if you will consider he writes to

Mr. *Morrice*, I believe every Body will agree, That such Declarations were not necessary.

Mr. *Layer*'s Attainder was read ; but it does not appear, that the Bishop had any Correspondence with him ; therefore I can't conceive why we were troubled with it.

My LORDS, I have now gone thorough the whole Evidence that is brought to justify this extraordinary Proceeding, and must observe the Steps that have been taken to procure all the possible Means to work the Destruction of this Great Man.

You have seen his very Servants confined, who, it does not appear, were guilty of the least Glimpse of Treason.

Lawson, a Baker of *Bromley*, who appeared at your Bar, has been employ'd to examine the Persons in the Bishop's Neighbourhood, in order to find the least Particular that could amount to the Shadow of a Proof, and went so far as to offer *Wood* the Coachman, the Wages that were due to him, if he would have gone the Lengths that were required.

Mr. *Bingley* told us in the Case of *Kelly* (and as it has not been disproved, it is to be taken for granted) that a War-
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rant was shewn by the Messenger, sign'd by a Secretary of State, to carry him to *Newgate*, which he was told was unavoidable, unless he would own the Letter of the 20th of *August* to be Mr. *Kelly's* Hand-writing: But it appeared the next Day, to be nothing but in order to terrify him.

Mr. *Kelly* himself has told your Lordships, That Mr. *Delafaye* offered him his own Terms, if he would have turn'd Evidence: And this was done to destroy the Bishop of *Rochester*; or, to speak in the Language mentioned at your Bar, *To pull down the Pride of this haughty Prelate.*

Your Lordships may remember, That Mr. *Wearg* objects to the Bishop's Servants, because Two of them had Employments, as appears by his Lordship's own Letter. But, my Lords, when they were examined, they acquainted the House, that it was upon reading of the *Report*, that they re-collected the Bishop's Circumstances before the Death of his Wife. And if every Man who has a Place under the Bishop is not to be esteemed a Free Agent, when he is upon Oath, I hope it will be allowed on the other Hand, That those who have Employments under the Government, ought not

to be admitted ; then all the Witnesses that have been brought to support the Bill, from the Decypherer to the Messenger, will be discredited, and the whole Prosecution must fall to the Ground.

My LORDS, It has been a Hardship which has attended the Bishop, that he has been forced to prove a Negative ; and the Difficulty has been the stronger upon him, that your Lordships have not permitted Mr. *Kelly* to be examin'd, as was moved by a Learned Lord in my Eye ; and if the Gentleman had sworn what he so solemnly affirmed at your Bar, relating to this Affair, I can't conceive we could have had the least Debate.

The Noble Lords, who appear the most Zealous in this Prosecution, were those who oppos'd the Examination of Mr. *Kelly*, which, in my poor Opinion, is a strong Argument, That if he had been brought before us, he would have persisted in his Declarations of the Bishop's Innocence.

The Reverend Prelate has desired of any Lord in the Administration, and even the Honourable Person who appear'd at your Bar, to declare, Whether any one single Person had charg'd him (on their own Knowledge) of being guilty of any treasonable Practice? and it has
appear-

appeared to the contrary: Therefore this whole Charge is founded upon the slight Circumstances and improbable *Innuendo's* before-mention'd.

Another Objection that was raised, is, That Mr. *Kelly* made Resistance, when he was seiz'd, 'till he had burnt some of his Papers: But, my Lords, I don't see any Reason to lay this to the Charge of the Bishop.

Kelly is to answer for his own Actions, and is unfortunately like to suffer for 'em: A Person of his Age, might have many Letters in his Custody, which he did not care should be seen, and yet of a different Nature from a Traitorous Correspondence.

After this Evidence is considered, I cannot think your Lordships will establish such a Precedent, which hereafter may be employ'd to ruin the Greatest amongst you; and if ever hereafter Pains and Penalties are unjustly inflicted on any Person, Posterity will derive the Original of such Bills from the Proceedings of this Parliament; and what Opinion will be framed of us, should this be passed into a Law, I submit to every impartial Person.

It must be left to your Lordships Consideration, Which will be of most fatal Consequence to the Publick? The leav-

ing this Precedent (of condemning on such kind of Evidence) like a Sword which your Enemies may take up when they please, or the Banishing the Bishop of *Rochester*, in the Evening of his Days, who alone could do, in his single Person, no Prejudice to the Constitution: If he were inclin'd to overturn it, as his Enemies suggest, he is in a better Situation Abroad than at Home, to execute that Design, and direct the Counsels of the Disaffected. The Ruin of one Man will not heal the Wound, that the Passing of this Bill seems to make in the Government of this Kingdom.

It has been said in the Debate, That the Bishop ought to have made Protestations of his Zeal for his Majesty and his Family: But, I think, he took the most ready Way of performing his Duty, when he shew'd himself innocent of the Crimes laid to his Charge.

If he had made use of any Expressions, which those Lords blame him for omitting, the same *good Nature* would have call'd it *Hypocrisy*; and those who are displeas'd with his *Silence*, would have accused him of *Insincerity*.

My LORDS, This Bill seems as irregular in the Punishment it inflicts, as
it

it is in its Foundation, and carries with it an unnatural Degree of Hardship.

It is Felony for his Children to correspond with him: And in this Circumstance, it is different from the only Bill that carries with it the least Resemblance of this: I mean, That for the Banishment of the Earl of *Clarendon*.

The Earl had flown from the Prosecution, and retired beyond Sea. The Charges against him were, principally, *For advising a Standing Army*; and another Article exhibited was, *That he had advised and procured divers of his Majesty's Subjects to be imprison'd against Law, in remote Islands, Garrisons, and other Places, thereby to prevent them of the Benefit of the Law, and to produce Precedents for the Imprisoning any other of his Majesty's Subjects in like manner.*

The 7th Article against him was, *That he had, in a short time, gained to himself a greater Estate than can be imagin'd to be gain'd lawfully in so short a Time; and, contrary to his Oath, he hath procured several Grants under the Great Seal from his Majesty, for himself, and his Relations, of several of his Majesty's Lands, Hereditaments and Leases, to the Disprofit of his Majesty.*

There

There needed not have been any Witnesses of these Crimes, for they were apparent, and every body knew that he was *Prime Minister*; yet Sir *Francis Goodyer*, upon that Debate in the House of Commons, declar'd the Sentiments which I express'd at the Beginning, *That he was not against Proceeding, but unsatisfy'd to do it without Witness, it being like Swearing in verba Magistrum.*

Another Great Man, upon the same Question, and an Ancestor to a Noble Lord near me, said, *That if the Parliament set aside Law in this Case, we should be happy to see Law declaring the Power of Parliaments.*

The Punishment for Corresponding with the Earl, was High-Treason, and then Two positive Witnesses were necessary to convict; but, in this Case, one Corrupt, Terrified, and Perjured Person, may take away the Life of the most Innocent Man.

There is another great Misfortune which this Bill brings upon the Bishop, which is, That he is incapable of receiving his Majesty's Pardon: This, my Lords is an Entrenchment upon the Prerogative: And what must make it the more severe in this Case, is, That His Majesty's Inclinations to Mercy (which are the distin-

distinguishing Characters of his Life) are stopt by this Law, which the unfortunate Prelate might have Hopes of receiving, when he had merited it, by a Dutiful Behaviour to the Country that had sent him to wander Abroad in Exile, and by his future Conduct have confirm'd, if possible, the Evidence he has given of his Innocence.

My Lords, in the Case of the Earl of *Danby*, your Lordships have declared, That his Banishment should be no Precedent, nor draw into Example for the Time to come, and have so enter'd it in your Journals.

It has been proved, That this Reverend Prelate was at the Time that he was suspected to be acting in Treason, engaged in Studies of the most high Nature, which is a Circumstance that ought to have some Weight.

If this Bill pass into a Law, such Evidence is establish'd, and such a Method of Proceeding introduc'd, as must effectually render all that is dear to us precarious; and if ever, hereafter, we should see a Wicked Administration, supported by a Corrupt Majority in Parliament, this Step, taken in these Times of Liberty, will be a sufficient Precedent to give a Colour of Justice to the
Actions

Actions of those who should be wanton in Tyranny.

The Reverend Prelate, who spoke before me, mentions some Cases relating to Bills of Attainder, which, in my poor Opinion, differ very much from our present Question.

The Attainder of Sir *John Fenwick*, was only to supply the want of a Witness, who had deposed against him upon Oath before the Grand Jury, and who was spirited away by the Prisoner's Friends: But at present, your Lordships are to supply the Defect of Evidence, by condemning on improbable Conjecture. There was a noble Lord in this House the other Day, I don't see him now, who made the greatest Figure in Opposition to that Bill: I wish we could have his Assistance on this Occasion.

My Lords, since that Reverend Prelate has quoted some Cases, he will permit me to remind him what has been formerly said upon Acts of Attainder: That such Bills, like *Sisyphus's* Stone, have frequently roll'd back upon those that were the chief Promoters of them.

This prudential Argument should restrain us from being too forward with them at this Time of Day.

The

The Act for the Attainder of the Earl *March*, pass'd, because he had been instrumental in procuring the Attainder of another Lord, under Pretence of a Letter, which the Recorder says, was no Evidence.

The Lord *Cromwell* is another known Instance of this Observation: He was the first who advis'd this violent Proceeding in *Henry* the 8th's Time; and it is Remarkable, that the Advice he gave to the Ruin of others, proved, not long after, fatal to himself.

I have now given your Lordships the Reasons why I am against the Bill. I fear I have tired your Patience, and shall therefore conclude with the Words of the Great Man I before mention'd; I mean, Sir *Heneage Finch*, in the Case of the Earl of *Clarendon*.——
We have an Accusation upon Hearsay, and if it is not made good, the blackest Scandal Hell can invent lies at our Doors.

The

*The LORDS PROTEST on Passing
the Bill to inflict Pains and Penalties
on FRANCIS Lord Bishop of Rochester.
To which is added, The Duke of
WHARTON'S Single PROTEST on that
Occasion, referring to the former.*

Die Mercurii, 15 Maij 1723.

H*ODIE tertia vice lecta est Billa,*
entitled, *An Act to inflict Pains
and Penalties on Francis Lord Bishop
of Rochester.*

The Question was put whether this
Bill shall pass?

It was resolv'd in the Affirmative.

Content ——— 83.

Not Content — 43.

Dissentient'

I. Because the Objection, which we
thought lay against the Bills of *Plunket*
and *Kelly*, that the Commons were
thereby, in Effect, let into an equal Share
of Judicature with the Lords, does hold
stronger, as we apprehend, against the
present Bill; since by Means of it, a
Lord

Lord of Parliament is in Part try'd and adjudg'd to Punishment in the House of Commons, and reduc'd to a Necessity, either of letting his Accusation pass undefended in that House, or of appearing there; and, as we take it, derogating from his own Honour, and that of the Lords in general, by answering or making his Defence in the Lower House of Parliament.

II. Because we are of Opinion, that the Commons wou'd be very far from yielding to the Lords, any Part of those Powers and Privileges, which are properly theirs by the Constitution, in any Form, or under any Pretext whatsoever; and it seems to us full as reasonable, that the Lords should be as Tenacious of the Rights and Privileges, which remain to them, as the Commons are on their Part.

III. We think this Bill against a Lord of Parliament, taking its rise in the House of Commons, ought the rather not to have receiv'd any Countenance in this House; for that, as it appear'd to us by the printed Votes of the House of Commons, that House had voted the Bishop guilty of all the Matters alledg'd against him in the Bill, before the Bill was brought into that House, and consequently, before the Bishop had any Opportunity

portunity of being heard; and altho' there be nothing absurd in passing such a Vote, in order to their accusing by an Impeachment, yet it seems to us absolutely contrary to Justice, which ought to be unprejudic'd, to vote any one guilty, against whom they design to proceed in their Legislative Capacity, or in the Nature of Judges, before the Party has an Opportunity to be heard; or the Bill, which is to ascertain the Accusation, is so much as brought in.

IV. We are of Opinion, that no Law ought to be pass'd on purpose to enact, that any one be guilty in Law, and punish'd as such, but where such an extraordinary Proceeding is evidently necessary for the Preservation of the State; whereas the Crime offer'd to be prov'd against the Bishop of *Rochester* is, as we apprehend, his partaking in a traitorous Conspiracy against the Government, which Conspiracy, by God's Blessing, is detected, and, as we hope, disappointed, without the Aid of such a dangerous Proceeding, as we conceive this to be.

V. Because there are certain known and establish'd Rules of Evidence, which are part of the Law of the Land, either introduc'd by Act of Parliament, or fram'd by Reason, and the Experience of Ages,
adjusted

adjusted as well for the Defence of the Life, Liberty, and Property, of the Innocent Subject, as the Punishment of the Guilty; and therefore these Rules are, or ought to be, constantly adher'd to, in all Courts of Justice; and, as we conceive, should be also observ'd till alter'd by Law in both Houses of Parliament, whenever they try, judge, and punish the Subject, tho' in their Legislative Capacity; but since in many Instances in this, and two other Proceedings by * Bill, we have been taught by the Opinion of the House, that these Rules of Evidence need not to be observ'd by the Houses acting in their Legislative Capacity, we clearly take it to be a very strong Objection to this Manner of Proceeding, that Rules of Law made for the Security of the Subject, are of no Use to him in it, and that the Conclusion is very strong, that therefore it ought not to be taken up, but where clearly necessary, as before affirm'd; and we desire to explain ourselves so far upon the Cases of Necessity excepted, as to say we do not intend to include a Necessity arising purely from an Impossibility of convicting any other Way.

* *Against Plunket and Kelly.*

VI. If it be admitted, that traitorous Correspondence in Cyphers, and Cant Words, may, to a Degree, be discourag'd by this Sort of Proceeding, in which Persons, as we think, are convicted on a more uncertain Evidence than the known Rules of Law admit of, yet, we are of Opinion, That Convenience will be much more than outweigh'd by the Jealousy it must of Necessity, as we conceive, create in the Minds of many of his Majesty's most faithful Subjects, that their Lives, Liberties, and Properties, are not so safe, after such repeated Examples as they were before, and by the natural Consequence of this Apprehension, an Abatement of their Zeal for the Government may ensue, excepting such Persons as have more than ordinary Opportunities of being well instructed in Principles of the utmost Duty and Loyalty.

VII. We cannot be for the passing this Bill, because the Evidence produc'd to make Good the Recital of it, or that the Lord Bishop of *Rocheſter* is guilty of the Matter he therein stands accus'd of, is, in our Opinions, greatly defective and insufficient, both in Law and Reason, to prove that Charge, the Evidence consisting altogether, to the best of our Observation,

fervation, in Conjectures arising from Cir-
 cumstances in the Interceptors, or on a
 Comparifon of Hand-writings refting on
 Memory only; and there being, as we
 think, no Proof of the Bifhop's knowing
 of, or being privy to any of the faid
 Correspondence; and as to the princi-
 pal Part of the Charge againft the Bifhop,
 and on which, as we think, all the reft
 does depend, *viz.* the dictating the Let-
 ters of the 20th of *April*, 1722, which
 the Houfe of Lords feem'd to have de-
 termin'd that *Kelly* wrote; we are of
 Opinion, that the Bifhop has, in his De-
 fence, very clearly and fully prov'd, that
 he did not, nor poffibly could dictate
 thofe Letters, or the Subftance of any
 Part of them to *Kelly*, either on the Day
 of their Date, or at any Time, during
 feveral Days next before, or next after
 the Day of their Date, nor was in any
 Capacity to write them himfelf, tho' the
 Letters muft have been wrote within that
 Compafs of Time: And we are, on the
 whole, of Opinion, that the Proof and
 Probability of the Lord Bifhop of *Ro-
 chefter's* Innocence in the Matters he
 ftood charg'd with, were much ftronger
 than thofe of his Guilt.

<i>Strafford</i>	<i>Uxbridge</i>
<i>Bruce</i>	<i>Arundel</i>
<i>Poulet</i>	<i>Guilford</i>
<i>Dartmouth</i>	<i>Middleton</i>
<i>Craven</i>	<i>Hereford</i>
<i>Hay</i>	<i>Stawell</i>
<i>Bathurst</i>	<i>Denbigh</i>
<i>Gower</i>	<i>Northampton</i>
<i>Weston</i>	<i>Fr. Cestriens.</i>
<i>Exeter</i>	<i>Litchfield</i>
<i>Willoughby de Br.</i>	<i>Ashburnham</i>
<i>Cowper</i>	<i>Trevor</i>
<i>Bingley</i>	<i>Compton</i>
<i>Scarsdale</i>	<i>Masham</i>
<i>Salisbury</i>	<i>Berkley Strat.</i>
<i>Montjoy</i>	<i>Pomfret</i>
<i>Cardigan</i>	<i>Brooke</i>
<i>Anglesey</i>	<i>Oxford</i>
<i>Foley</i>	<i>and</i>
<i>Osborne</i>	<i>Mortimer.</i>

I Dissent for the 6th and 7th Reasons of the foregoing Protestation, and for the following Reasons:

I. Because this extraordinary Method of Proceeding by Bills of this Nature, against Persons who do not withdraw from Justice, but are willing to undergo a legal Tryal, ought, in my Opinion, to be supported by clear and convincing Evidence; and I apprehend there has been

been nothing offer'd to support the Allegations set forth in the Preamble of the Bill, *to inflict Pains and Penalties on Francis Lord Bishop of Rochester*, but what depends upon decypher'd Letters, forc'd Constructions, and improbable Innuendo's.

II. I conceive, that the Examination of *Philip Neyno*, taken before the Lords of the Council, not sworn to or signed, which appears to me to be the Foundation on which the Charge against the Bishop of *Rochester* is built, has been, in my Apprehension, sufficiently prov'd by the positive Oaths of three Persons, two of which have been for several Months in separate Custodies, confirm'd by other Circumstances, to have been a false and malicious Contrivance of the said *Neyno*, to save himself from the Hands of Justice, and to work the Destruction of the Bishop of *Rochester*.

III. I do apprehend, that the Letters of the 20th of *April*, which are suggested to be wrote by *George Kelly*, aliàs *Johnson*, and dictated by the Bishop, have not been sufficiently prov'd to be the Hand-writing of the said *Kelly*: But on the contrary, it appears, to the best of my Judgment, that the Letter of the 20th of *August* (stopp'd at the Post-Office, and

from which the Clerks of the Post-Office, on their Memory only, swear, they believe the said Letters of the 20th of *April* to be the same Hand-writing, tho' they never compar'd two original Letters together during all that Time) has been prov'd by three creditable Witnesses, concurring in every Circumstance of their Testimony, and well acquainted with the Hand-writing of the said *Kelly*, not to be his Hand-writing: And I conceive, that the Difference they have observ'd in the Hand of the said *Kelly*, upon which they ground their Opinions, is sufficiently supported, by comparing the said Letters of the 20th of *August*, with the Letters wrote by the said *Kelly* to the Lord *Townshend* and Mr. *Delafaye*, during the Time of his Confinement.

IV. I do not apprehend, that any Proof has been offer'd to support what has been so much insisted on, and justly esteem'd Essential to the Charge, that the Bishop of *Rochester* dictated the Letters of the 20th of *April*; but it has appear'd, I conceive, that there has been no Intimacy between the Bishop and the said *Kelly*; and the Testimony of the Bishop's Servants concurring with the Evidence given on that Head by the Persons that *Kelly* liv'd in the strictest Correspondency with, leaves,

leaves, to the best of my Judgment, no Room to doubt, but that the Acquaintance between them was slender, and publick; and to suggest from thence, that the Bishop dictated the Letters of the 20th of *April*, when it appear'd, that for many Days before, he could not possibly see the said *Kelly*, is, in my Opinion, repugnant to Reason, and contrary to Justice.

WHARTON.



*The Duke of WHARTON's LETTER
to FRANCIS Lord Bishop of Rochester,
in the Tower, May 1723.*

MY LORD,

IT is not possible to express what I think, and what I feel! only this, that I have thought and felt for nothing but for you, for some Time past; and shall think of nothing so long, for the Time to come! The greatest Comfort I had was, an Intention which I would have made practicable, to have attended you in your Journey; to which I had brought that Person to consent, who only could have hindered me, by a Tye which, tho' it may be more tender, I do not think can be more strong than that

of Friendship. But now I find, that Malice, which cou'd be no more foreseen, than one would think it could be contriv'd, by any human Creature, has render'd every friendly, nay, every grateful Thought towards you impracticable; I fear there will be no Way left me to tell you this great Truth: That I remember you! That I love you! That I am grateful to you! That I entirely esteem and value you! No Way, but that one, which I will find, even tho' it were Death to correspond with you! A Way! which needs no open Warrant to authorize it; or secret Conveyance to secure it; which no Bills can preclude, nor no Kings prevent: A Way! which may reach to any Part of the World, where you may be; where the very Whisper, or even the Wish of a Friend must not be heard, or even suspected: By this Way I dare tell my Esteem and Affection for you to your Enemies in the Gates; and you and they, and their Sons, shall hear it.

You prove yourself, my Lord, to know me for the zealous Friend I am, in judging, that the Manner of your Defence, and your Glory in it, is a Point of the highest Concern to me; and assuring me, that it will be, that it shall be such;
that

that none of your Friends shall blush for you: Let me further prompt you to do yourself the best, and most lasting Justice; the Instruments of your Fame to Posterity will be in your own Hands. May it not be, Providence has appointed you to some great and useful Work, and calls you to it this severe Way; you may more eminently, and more effectually serve the Publick, even now, than in the Stations you have so honourably fill'd. Think of *Tully*, *Bacon*, and *Clarendon*; is not the latter, the most disgraced Part of their Lives, which you most envy, and which you would chuse to have had?

I am tenderly sensible of the Wish you express, that no Part of your Misfortune may pursue me; but God knows how short a Time we maybe suffer'd, or we may desire to be suffer'd, to live in this Country. I am every Day less and less fond of it, and begin seriously to consider a Friend in Exile, a Friend in Death; one gone before, where I am not unwilling, nor unprepar'd to follow after; and where, however various or uncertain the Roads and Voyages of another World may be, I cannot but entertain a pleasing Hope, that we may meet again! This I faithfully assure you, that, in the mean time, there is no one, living or dead, of whom
I shall

I shall think oftener, or better, than of you! I shall look upon you, as in a State between both, in which you will have for me all the Passions, all the warm Wishes, that can attend the Living; and all the Respect and tender Sense of Loss that we feel for the Dead! and I shall always depend upon your Friendship, kind Memory, and good Offices, tho' I were never to hear, or see the Effects of them; like the Trust we have in benevolent Spirits, who, tho' we never see, nor hear them, we think to be constantly serving us, and praying for us.

Whenever I am wishing to write to you, I shall conclude, that you are intentionally doing so to me; and every time I think of you, I will believe you are thinking of me: I shall never suffer to be forgotten (nay, to be faintly remember'd) the Honour, the Pleasure, the Pride I must ever have in reflecting how frequently you have delighted me! how kindly you have distinguish'd me! how cordially you have advised me, in Conversation, in Study! in which I shall always want you, and wish for you; in my most lively, in my most thoughtful Hours, I shall equally bear about me the Impressions of you; and, perhaps, it will not be in this Life only, that I shall have Cause
to

to remember and acknowledge the Friendship of the Bishop of *Rochester*! Be assured, that I wish for any Occasion of publickly bearing Testimony to the Truth, on your Behalf, and shall be glad to be call'd upon; and so will the Friend you mention: Would to God we could act for you! but if not that, at least, let us appear for you.

My Lord, while yet I can write to you, I must, I will correspond with you, till the very Moment that it is Felony: And when I can no longer write to you, I will write of you.

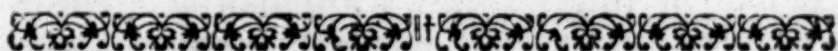
To tell you that my Heart is full of your Defence, is no more than, I believe, the worst Enemy you have must own of his; you have really, without a Figure, had all the Triumph that ancient Eloquence boasts of; their Passions and Consciences have done you Right, tho' their Votes will not; You have met with the Fate frequent to great and good Men; to gain Applause, where you are deny'd Justice: Let me take the only Occasion I have had, in the whole Series of your Misfortunes, to congratulate you, not you only, but Posterity, on this noble Defence! I already see in what Lustre your Innocence is to appear to other Ages, which this has over-borne and
opprest;

opprest; I know perfectly well what a Share of Credit it will be to have appeared on your Side, or being call'd your Friend; I am far prouder of that Word you publickly spoke of me, than of any thing I have yet heard of myself, in my whole Life. Thanks be to God! that I, a private Man, concern'd in no Judicature, and employ'd in no publick Cause, have had the Honour, in this great and shining Incident, which will make the first Figure in the History of this Time, to enter, as it were, my Protest for your Innocence, and my Declaration for your Friendship.

Be assured, my Lord, No Time shall ever efface the Memory of that from my Heart, should I be denied the Power of expressing it ever more with my Pen, in this Manner; but could the Permission be obtain'd, which you had once the extream Goodness to think of asking, even of those from whom you could ask nothing, I believe, but what lies very near your Heart; could the Permission of corresponding with you be obtain'd, I do assure you, I would leave off all other Writing, and apply it wholly to you, where it would please me best; and to the Amusement, or, if I could be so happy as to say, Comfort of your Exile, 'till God, and your Innocence, which will support you
in

in it, restore you from it; than which
there is not a sincerer, or warmer Prayer,
my Lord, in the Breast of your Ever
Obliged and Affectionate Friend,

W H A R T O N.



From MIST's Journal, August 24, 1728:

*Ante retro Simois fluet, & sine frondibus Ide
Stabit, & auxilium promittet Achaia Trojæ;
Quam, cessante meo pro vestris pectore rebus,
Ajacis stolidi Danaïs solertia proffit
Sis licet infestus sociis, regique, mibique,
Dure Philoctete; licet execrere, meumque
Devoveas sine fine caput; cupiasque dolenti
Me tibi forte dari, nostrumque haurire cruorem;
* * * * *
Te tamen aggrediar; —*

Ovid. Metamorph. Lib. XIII.

Mr. MIST,

I HAVE long desired an Opportunity
of corresponding with you, but was
prevented from it by the Fear I had of
disobliging a certain *Norfolk* Steward,
who has lately been drowned in a Well
of his own contriving.

This Gentleman was married to a near
Relation of Doctor *Burgess*, with whom
my

my Father was intimately acquainted, and my Friends us'd often to assure me, that I should inherit this Steward's Estate.

As I suppose he has made his Will, for many Phænomenas have foretold his Death for some Time, I am pretty certain I shall be his Heir; for it is remarkable, that he has been extremely fond of purchasing all the Pictures of my Ancestors, which plainly shews his Desire of being thought related to me.

This Difficulty that was the Cause of my Silence being removed, I can no longer defer the Pleasure I have of giving you a perfect Relation of the present State of Affairs in *Persia*.

I observe you have been often under Confinement for having disobliged the present Government, and I must say, that I hope for the future, you will avoid all Occasions of giving Offence to the Ministry: A Ministry! equally esteem'd for their Abilities in Domestick, and their great Experience in Foreign Affairs, and whose Lenity, of which we have had the strongest Proofs, renders their Administration as amiable at Home, as it is formidable Abroad.

I have chose a Subject which will please the Curiosity of the Publick, and,
at

at the same Time, prove that you are not ungrateful for the Favours you have already received, and endeavour to entertain the World upon harmless Subjects: If you will continue to write upon the same Foot, I am perswaded, that those who have been your Enemies, purely to do you Service, will become your Friends, and be your most constant Readers.

To begin then, I have liv'd for some Years in *Persia*, and consequently have been Witness of all the Miseries that Usurpation has introduced into that unfortunate Empire.

I have formerly read so many Paragraphs in your Paper, which have given a true Character of the old Usurper *Meryweis*, that I will not trouble you with needless Repetitions.

Upon his Death, *Esreff*, the present Usurper, ascended the Throne: This *Esreff* would fain pass for the Son of his Predecessor; but those who know the History of *Meryweis's* Family, which before it ascended the Throne was considerable, and little regarded, maintain the contrary; and what is certain, is, that the old Man, some Time before his Death, left two Writings, the one in the Hands of the High-Priest, and the other
in

in the Possession of his Favourite Concubine, declaring the Illegitimacy of his pretended Son. But the Chief Scribe, who knew this important Secret, imparted it to *Esreff*, in order to purchase his Friendship, and to be *screened* by *Esreff*'s Authority, from the Cries of the People, who were groaning under the Load of his Depredations.

The Priest was soon terrified to betray his Trust, and deliver the Writing, in order to avoid the Pains and Penalties that are generally in those barbarous and unchristian Countries inflicted on such who dare withstand the Torrent of Power and Usurpation. The Concubine, who had hoarded up Heaps of Treasure, while she was Mistress of him who was Master of the *Persian* Empire, and had been the Object of *Esreff*'s Hatred, wanted no other Bribe to induce her to a servile Compliance, but a Security to preserve her vast Estate in this unforeseen Turn of Affairs. Thus the Intentions of the old Man were frustrated by the Treachery of his Creatures: A Fate but too common to Princes!

As I am thoroughly acquainted with the unfortunate young *Sophi*, and with the Tyrant *Esreff*, it will not, perhaps, be displeasing to you, to receive
from

from me a personal Character of them both.

The *Sophi*, in his Person and Deportment, resembles his Father and his Uncle, whose Pictures I have seen. He is a Prince whose gracious Behaviour is sufficient to win, his Majesty to awe, and his Courage to face, the most inveterate of his Enemies. His Sufferings have added Experience and Patience to those endearing Qualities, in order to compleat the greatest Character that ever Eastern Monarch bore : The Misfortunes of his Subjects grieve him more than his own ; such his publick Spirit ! This Prince has no *Seraglio*, but has taken to his Arms one Princess, whose Royal Virtues are fit to warm the Breast where dwells so great a Heart.

God has blest'd them with two Princes, who promise all the great Qualities their Infancy will permit them to discover ; and as their Education is in the Hands of their Parents, whose Examples confirm their Instructions, it is most certain, that *Persia* may esteem it self happy, to see the Descendants of those Monarchs that have sway'd their Scepter with Lustre and Glory, maintain their Right to the Crown by Merit, as well as Descent.

Esreff's Character is the Reverse of the *Sopbi's*; he is covetous to the Extent of Avarice; he has every thing of Ambition, but that which is necessary to sustain it; he is despised by all that approach him, for the excessive Vanity that swells his Mind, and induces him to believe that he is the Idol of his People.

In his Court he has some who would pretend to Politeness and Wit, which Character they would establish, by extolling of Vice, and ridiculing of Virtue. They have each of them a Sett of Flatterers in their Pay, and they employ these Scriblers to chant out their Praises to the World in bombast Poetry, and absurd Prose; so that we may say, that true Learning, which formerly flourished to a great Degree in *Persia*, expires with the other Glories that adorn'd that once powerful Empire. *Esreff* has many Women in his *Seraglio*, but his first *Sultana* bears an absolute Sway over his weak Mind, and disposes of the Empire at her Will.

The Usurper and his Followers have changed the *Persian* Habit, and appear in Dresses that are proper Decorations to adorn the Persons that wear them; the Fashion of them is so singular, that the Courtiers look like Pantomimes that strut

strut upon the Stage of Life, to represent Vanity and Folly.

The Chief Scribe is the great Director of publick Affairs; his Treachery to the Memory of *Meryweis*, in the Instance I have already mentioned, was a sufficient Merit to recommend him; but what added to his Power was, the immense Treasure he had bestowed on the Favourite *Sultana*, whose darling Passions, Vanity and Ambition, were gratified, when she found herself possessed of Part of the Plunder of the unhappy *Persians*, and enjoying a greater Revenue than any Princess who had filled the Arms of *Persian* Monarch (before the Scepter was wrested by Rebellion and Treachery from the Hands of those whose undoubted Right it was to sway it) had ever pretended to desire.

You will naturally be surprized, that a Prince so unequal to Imperial Dignity, directed in all his Counsels by a Minister who is as famed for Corruption as *Sejanus*, and for Cruelty as *Nero*, should be able to maintain the Possession of the Empire, in Opposition to a lawful *Sopbi*, whose undoubted Right is supported by the Affection and Duty of the Generality of the People, by whom hourly Prayers are offered up for his Restoration; but

Providence, the great Director of all Things, has hitherto ordered it otherwise, and the Royal Heart that dwells in the young Monarch's Bosom, bears his Misfortunes with the Patience of a Hero, and an intrepid Resolution worthy the Descendant of his glorious Ancestors.

It was *Meryweis* that begun the Destruction of *Persia*, and by the artful and corrupt Methods he pursued to establish his ill-got Power, had rendered it difficult for the young *Sopbi* to strike the Blow upon his Death, and remount his Father's Throne; but well he knew that *Esreff* would soon lose the few Friends that were attach'd to his pretended Father's Fortune; and as he grew despised by his own Creatures at Home, would consequently become more odious Abroad, than the Knowledge which some Eastern Princes had of him, had already rendered him. *Esreff*'s Ministers were ignorant of all foreign Affairs, and the Aga that he sent as his Agent to *Constantinople*, had travelled about *Persia* to divert the Nobility of that Country, as a Buffoon, which Character both his Person and his Parts entitled him to perform.

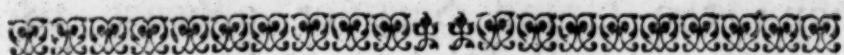
The Reign of Iniquity in that Country, according to our last Advices from thence, seems to draw towards a Conclusion;

sion ; the Grand Seignior appears to slacken in his Resolution to support the Usurpation, and to listen to the Advice of his Favourite Mufti, a Person of great Honour and known Humanity. The Mufti, whose chief View is to prevent a War, and consequently the Effusion of Blood, must see, that so long as the *Ottoman* Port shall continue to favour the Interest of *Esreff*, there will be Friends in *Asia*; for the Spirit of Loyalty that adorns the *Persians* will never abate. The *Grand Mogul* and the Czar of *Muscovy* will certainly support the young *Sophi*, who has two powerful Advocates of his Side to engage every honest Man in his Party, *viz.* Justice and Constancy, who never fail to triumph over Bribery and Rebellion.

If the *Turks* should listen at last, as no Doubt they will, to the Cries of an injur'd, oppress'd, and plunder'd Nation, who implore their Protection, then, and then alone, a Peace will ensue in the East, which will make the *Halcyon* Days return, and the Temple of *Janus* may be shut for ever. I am

Your Humble Servant,

AMOS DUDGE.



His Grace the Duke of WHARTON'S
REASONS for leaving his Native
Country, and espousing the Cause of
his Royal Master King JAMES III.
In a LETTER to his Friends in
Great-Britain and Ireland.

Friends! Countrymen! and Fellow-Citizens!

I Esteem it a Duty incumbent upon me, to acquaint you with the Reasons that have induc'd me to espouse the Cause of my Royal Master King *James III.* and dedicate the Remainder of my Life to his Service, and the Prosperity of the Royal Family. The Proceedings begun against me in *England*, and the partial Severity of those in whose Hands I left the Management of my Estate, renders it necessary for me to publish the Motives of my Actions, in order to be justified from the scandalous Aspersions of my Enemies, who would cast the most odious and ridiculous Colours upon every Part of my Conduct, and represent the Dictates of Honour and Conscience, as the Effects of Rashness and Folly.

I shall first begin with expressing the greatest Regard for the Memory of the
 best

best of Fathers. I have endeavoured to molde my Life according to the Principles he gave me, as the unerring Guides to direct my Steps in every publick as well as private Action.

He taught me those Notions of Government, that tend to the preserving of Liberty in its greatest Purity, when he extoll'd the Blessings of the unfortunate Revolution of 1688. He represented Triennial Parliaments as the greatest Bulwark against Tyranny and Arbitrary Power. The being freed from the Danger of a Standing Army in the Times of Peace, was by him esteemed as a Blessing the Prince of *Orange* had introduced among us. The Security of the Church of *England*, the Liberty of the Press, and the Condemning the Right of the Dispensing Power in the Crown, were other Arguments that he us'd to employ, in order to justify the Dethroning his late Majesty.

With these Principles I entered upon the Stage of Life, when I soon beheld the Triennial Act repeal'd, standing Armies and Martial Law establish'd by Authority of Parliament; the Convocation of the Clergy prevented from meeting; the Orthodox Members of the Church discouraged, Schism, Ignorance and Atheism

become the only Recommendation to Ecclesiastical Benefices ; both Houses fill'd with the corrupt Tools of the Court ; the Nation overwhelm'd with exorbitant Taxes ; the Honour and Treasure of *England* sacrific'd to enlarge the Dominions of *Hanover* ; *German* beggarly Favourites trampling on the ancient Nobility ; the Act of Limitations disregarded ; the Liberty of the Press abolish'd ; and the Constitution of *England* thrown into the Mould of Corruption, to be modell'd according the arbitrary Pleasure of Usurpation.

When I reflected on their dreadful Scheme, I saw the Reason which my Father gave for the Support of the *Hanover* Succession, fall to the Ground ; and those who follow the Maxims of the old *Whiggs* are obliged to resist such destructive Tyranny, unless they forget their Principles, and grow obdurate in Guilt, and tenacious in Iniquity. Fired with Indignation, I resolv'd to follow my Father's Example, and endeavour to stem this Torrent of Misery.

I turn'd my Thoughts on the King as the most natural Deliverer from foreign Tyranny. The great Care that had been taken by my Governours to terrify me from the Idea of Restoration, by the
most

most false and scandalous Reflections that were cast on his Majesty's Person and Intentions, determin'd me to wait upon the King, before I would embark in the Royal Cause. The King was just return'd from his dangerous Expedition into *Scotland*, which his Majesty had undertaken contrary to the Advice of his Subjects, who seeing the Prospect of a Restoration destroy'd at that Time by the ill Success of *Jacobites* at *Preston* and *Dumblain*, and by other concurring Circumstances, would have deterr'd his Majesty from unnecessary exposing of his Royal Person.

But the King, notwithstanding their Remonstrances, embark'd on board a small Fishing-Boat, attended only by two Servants, and passing thro' the midst of the *English* Fleet that lay prepar'd to intercept him, landed in *Scotland*; which was certainly shewing the greatest Contempt of Danger, especially when the Cruelty of the *English* Government, actuated by rigid Principles, had extended itself so far, as to set One Hundred Thousand Pounds Price on his Royal Head. I had, accordingly, in the Year 1716, the Honour to be introduc'd unto his Majesty at *Avignon*. I was struck with a becoming Awe, when I beheld Hereditary Right shining in every Feature of his
Counte-

Countenance, and the Politeness of Education illustrating the Majesty of his Person. How charm'd was I! when I heard the Purity of the *English* Tongue flowing from his Majesty, warmly expressing the Sentiments of a *True Briton*. I was surpriz'd to find him pointing out each particular Misfortune that Usurpation had introduc'd into his native Country; and thus preventing me, by enumerating the long Catalogue of Enormities that I had prepared to be the Subject of my melancholly Story. Throughout his Majesty's whole Discourse, he appear'd rather like a Patriot weeping over the Ruins of his Country, than an injur'd exil'd Monarch lamenting his private Wrongs. His Resolution inviolably to preserve the establish'd Church of *England*; his just Sense of the Necessity of frequent Parliaments; his generous Desire of freeing his Subjects from the unnecessary Burthen of Taxes; his Abhorrence of Corruption; his Detestation of Tyranny; and his determin'd Design to hazard his Royal Person on every Occasion that should offer, to rescue his People, has so convinced me, that I hope my Loyalty, which shall be my Companion to the Grave, will be the Characteristick to distinguish my Memory.

Since

Since that happy Interview with the King, I have directed all my Thoughts to his Majesty's Service; and however the Circumstances of Affairs render'd it necessary for me, on some Occasions, to temporize with the Government; yet then I was labouring to serve the Royal Cause; which is a Truth very well known to many Persons. The despotick Government of *England* yearly furnishes us with fresh Scenes of Cruelty and Tyranny. The wicked *South-Sea* Scheme will be remembered by latest Posterity: And the King shew'd such an Abhorrence of that destructive and corrupt Project, that when the famous Mr. *Knight* came to *Rome*, where his Majesty then resided, he was order'd to depart the City in Twenty Four Hours Time.

The forging of a Plot to destroy the Bishop of *Rocheſter*, and the supporting it by Bribery and Perjury, is a Fact that has clearly appear'd to the whole World; and the best Friends of the Usurpation are themselves aſham'd of the illegal Proceedings againſt that Reverend Prelate.

The abolishing of the ancient Privilege of the City of *London*, and the new modelling the Charter by Act of Parliament, is a dangerous Blow, struck
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at the Root of the Constitution, and renders every Corporation of *England*, that displeases the Government, liable to be disfranchis'd by a wicked Ministry, supported by a corrupt Majority in Parliament. The King was so sensible of the Consequences of this Proceeding, that when I had the Honour of seeing his Majesty near three Years ago, he was graciously pleased to shew the utmost Concern, to see the undoubted Rights of the Common-Council sacrificed to the Fury of Faction and Rebellion. He express'd a Tendernefs for his good Citizens of *London*; he lamented the Decay of Trade, occasion'd by the unnecessary Disputes in which *England* was involv'd with other Powers, out of *German* Views. He gratefully remember'd their Loyalty to his Royal Uncle, and said, whenever it should please God to restore him to the Throne of his Ancestors, the Prosperity of the Citizens of *London* should be his peculiar Care. He declar'd, that the restoring of their Charter to its primitive Lustre, should be the Earnest he would give them of his sincere Resolution to maintain and protect them. Our present Governours, by their foreign Negotiations, have rendered *Great Britain* the Scoff of *Europe*. The Measures
they

they have pursued have impoverish'd the Nation, by their exorbitant Taxes ; and instead of holding the Balance of Power in their Hands, they are reduc'd meerly to implore the Protection of their Neighbours, at the Expence of the Treasure, Trade, Honour and Interest of *England*.

The Barbarity and Severity the present Ministers illegally exercise to destroy the Liberty of the Press, deserves the Attention of every *British* Subject. Conscious of their own Guilt, they would willingly *Screen* themselves from the Rage of the People, by keeping them in Ignorance ; and growing *Bankrupt in Politics*, would endeavour to support their sinking Credit, by pompous Speeches from the Throne, and servile Addresses of their Parliamentary Pensioners.

They know, that should the fatal Wounds they have made in the Constitution be probed to the Bottom, and exposed to publick View, the old *English* Spirit would no more bear their ignominious Sway. They consider, that should the Loyalty of the Majority of the Three Kingdoms, the Weakness of the *Hanover* Faction, and the present State of the publick Debts, be set in a proper Light, and shewn to the World, foreign Princes would scorn their impotent Alliance. To
conceal

conceal Truth, therefore, is become necessary to support them in their *German* Succession; and consequently, according to their usual Maxim, those who print any thing against their Inclination, must be persecuted and destroy'd. The Laws of the Land are disregarded, when they afford Protection to the Channels of Truth; and a Crew of Messengers are made the Instruments of their Fury, to plunder the Houses, and arbitrarily imprison the Servants of any Printer who has incurr'd their Displeasure, as has been lately the Case. To enumerate all the Acts of Tyranny, Avarice, and Cruelty, that have distinguish'd the former Reign, and usher'd in the present, becomes unnecessary in this Letter, for you but too heavily feel the Weight of Foreign Usurpation. I could not be any longer an unfortunate Spectator of the Miseries of my Country, and accordingly I withdrew from it near Four Years ago. I scorn'd to keep my Seat in Parliament, where Bribery had more Weight than Truth, and where Corruption triumph'd over Eloquence. I have endeavour'd, during my Travel, to serve my King and Country, to the best of my Power, and, I flatter myself, to his Majesty's Satisfaction. The King of *Spain*
most

most generously offered me his Royal Protection; and when the Siege of *Gibraltar* was undertaken, I was unwilling to lose an Opportunity of learning something in the Art of War, that I might draw my Sword in Defence of the King's undoubted Right, and the Liberty of old *England*, whenever the Glorious Occasion should offer. It was with this single View that I serv'd the last Campaign, and the Government of *England* have taken it as a Pretence to ground an Accusation against me. I have laid before you the principal Reasons that have determin'd me to attach myself intirely to his Majesty's Service, and that of the Royal Family. It is with Pleasure I have seen the Hopes of the future Prosperity of Old *England* flourishing in their Royal Highnesses the Prince of *Wales* and Duke of *York*. These Princes are admired by all that approach them; and the King's chief Care, in the Course of their Education, is to instruct them fully in those Maxims of Government that are necessary to make a Monarch happy, who reigns over a free and Trading Nation.

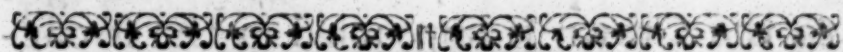
The present Frowns of Fortune in the cruel, ungrateful manner in which I am treated by a Sett of Men whom my
Father

Father dragg'd from Obscurity, shall never be able to deter me from pursuing the King's Interest with Steadiness and Perseverance. When I consider his Majesty as an undoubted Sovereign, Duty inforces my Loyalty, and claims my Obedience: When I call to Mind his Glorious Ancestors, whose Countty raised my Family to the Dignity of Peerage, Gratitude demands my Zeal for the Prosperity of their Royal Descendant. And when I reflect on the generous Dispositions that adorn the King's Mind, his Majesty seems to me to be pointed out by Providence to free us from Usurpation and Tyranny, and to restore our Constitution to its primitive Glory.

How happy are we to see the Necessities of all Parties uniting to effect the Work of Restoration. The *Tories*, according to their ancient Principles, are obliged to maintain and support Hereditary Right; and the *Whiggs*, unless they depart scandalously from the Maxims of their Predecessors, are bound by their Consciences to resist Arbitrary Power, in whatsoever Shape it appears, tho' colour'd with the specious Gloss of Parliamentary Authority, like the Tyranny of the *Roman* Emperors, who, to delude the People, preserv'd the Forms of Republican

publican Government. The *Whiggs*, I say, are bound to draw their Swords against these upstart Creatures, who have sold our Liberty, plunder'd our Properties, and violated *Magna Charta* in many flagrant Instances: And surely Restoration is the only Means left them to lay a solid Foundation for the future Freedom and Happiness of *England*.

The Patriot Virtues that shine in the King's Character will render his Majesty's Administration that Channel of Liberty and Plenty. Let us therefore, with unwearied Zeal, labour to support the Cause of the King and Country, and shake off the ignominious Load of *Foreign Fetters*.



WOLFE the Printer to Sir R. W.

S I R,

THE Manner in which I am inform'd you have enquir'd after me, since the latter End of *August*, encourages me to acquaint you with my Arrival at *Paris*, where I intend to reside for some time.

I have chose *France* for my Residence, preferably to any other Country, because the strict Alliance which appears to subsist

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between the two Courts makes me believe it more natural, that I shall give you less Offence by remaining here, than if I had gone to any other Part of *Europe*.

I have been prosecuted contrary to Law, or common Charity. The Cruelty of my Persecutors hath extended it self to every Branch of my Family, even to a Child sucking at the Breast of its Mother. The Crime against me is, the Printing a Paper, which it would really have been High-Treason in me to have declin'd, upon any Apprehension I could have of offending the Government by the Publication of it.

Can his Majesty, in his great Wisdom, forbear seeing the sacrificing of me is of little Consequence; and that his Right to the Crown is impeach'd in the strongest and clearest Light, by the Ministry that advised the imprisoning of me, and by the Council that prosecutes me? The Grand Jury of *Westminster* that presented the Paper as a Traytorous Libel, clearly express'd the Sense of the City they represent, relating to the King's Title to the Throne, when they declare the *Journal* to be Treason against his Majesty, and are guilty themselves of the Crime laid to my Charge, when they *Decypher* the ridiculous Character of
Esseff

Esreff to appertain to his Majesty, and to him alone. The Gentlemen that composed that Jury are undoubtedly perjur'd, unless they agree, that the Similitude of Circumstances related of *Esreff*, in the Paper, concur in every Particular with his present Majesty's Case. With what Horreur must all *Europe* see the Persons, who have the Honour of enjoying his Majesty's Confidence, loudly declaring, even by judicial Acts, that the expressing a Detestation of Rebellion, Usurpation, and Illegitimacy, is sapping the very Foundations of the present Government of *England*!

I must beg Leave, Sir, to enter into some few Particulars of the Paper, and then you will judge of the Innocence of my Intentions.

When *Esreff* is declared not to be the Son of *Meryweis*, but a known Impostor, that would impose himself on the *Persians*, as the Offspring of that famous Usurper, in order to appear entitled to the Favour of that Rebellious Band that were attach'd to his Predecessor; you, by your prosecuting of me, and accusing me of High-Treason, for Printing that Paper, construe this to be a parallel Case with his present Majesty's Situation; which, I confess, fills me with the

most terrible Idea's of the Venom of your fatal Designs against the Protestant Succession in the Illustrious House of *Hanover*. Can any body be suppos'd to suspect the King your Master's Illegitimacy? Was his late Mother, of Glorious and Vertuous Memory! ever suspected to have wrong'd his late Majesty's Bed? Has she not given, to the last Hour of her Life, the strongest Proofs of her Piety, by spending the Evening of her Days in a devout Retreat at the Castle of *All*, lamenting the Death of a Gentleman, who was her particular, and very intimate Acquaintance, long before his present Majesty was born?

When I mention *Meryweis's* Paper relating to the spurious Birth of his Successor, of which Mr. *Dudge* says he left two Copies; you declare, by your prosecuting me, that this Part of the *Journal* must relate to King *George's* Will. First, I must observe, that the Similitude is very different in one respect, for King *George* left three Copies of his last Testament, one of which was in the Hands of the Duke of *Brunswick Wolfenbuttle*; and, in the next Place, no body that hath seen his late Majesty's Will can be able to say, that there are the least Grounds for the Comparifon, which you and Mr. *Dudge* generally declar'd to be just.

How

How preposterous is it to imagine, that the late King, who so dearly lov'd his present Majesty, that he was never easy but when he had the Pleasure of beholding him, and shew'd such a particular Regard to his superior Genius, that he entrusted him with the Administration of his Affairs, and consulted him in every Act of Government ! I say, how repugnant to Reason is it, that so loving and tender a Father should leave such an unnatural Mark of Hatred behind, and disinherit so dutiful a Son !

The Pains you, and the rest of my Prosecutors, take to publish, throughout all *Europe*, by your Proceedings against me, that the King, your Master, resembles the Character, given by Mr. *Dudge*, of the Usurper *Esseff*, strikes me with the utmost Horror and Amazement. Is it possible, that any Man can accuse the present King of Avarice ? Has he not, some Months ago, given the most generous Proofs of Liberality that ever Monarch before attempted to do ! by offering to lend the Publick 500000 *l.* for Six Months, out of his own private Purse, at the easy Rate of 3 *per Cent.* Interest, upon the Malt Tax Security ? And his Majesty most graciously profer'd this in order to supply the Demands made on the Exche-

quer, for the extraordinary Expences of Pacifick Fleets and Frugal Ministers. 'Tis in order to enable him to illustrate his Liberality by fuch publick Monuments of Popularity, that his Majesty observes OEconomy in his Houfhould, and Parfimony in his Charity. 'Tis for this great End that he has retrench'd the Salary of his Servants, and the Candles of his Footmen.

Much lefs can he be blam'd for his Vanity. The Plainnefs of his Drefs, and the unaffected and gracious Carriage of his Perfon, are fufficient, by the very Aspect of his Majesty, to contradict any fcandalous Report of that Kind; which, by your Proceedings againft me, you would infinuate to be the Cafe. I fhould desire no other Defence againft any Accufation of this Nature, but his Majesty's perfonal Appearance in Court, and walking up *Westminfter Hall*, in the Sight of the Jury; but, as that is too great an Honour for me to desire, I have already directed a Painter of my Acquaintance to attend next *Twelfth-Night* at Court, to draw his Majesty's Picture, at the Hazard-Table, in the fame Drefs in which he fhall honour that Day: I hope Mr. *Attorney General* will either produce the Original, or fuffer me to give the Picture in Evidence.

No

No body, surely, can question his Majesty's Courage. I have my self beheld him reviewing his Guards with an undaunted Spirit; and, in the midst of their repeated Vollies, preserve the intrepid Resolution of a Hero. Such Proofs of unparallel'd Valour his Majesty frequently gives; which is the more extraordinary, because, you know, the Common Soldiers of the *English* Army are well affected to the *Jacobite* Interest, and will fly to the Pretender or the Duke of O——d, whenever either of them shall set up a Standard in any Part of the Island; esteeming Desertion, in such a Case, the Duty of *Englishmen*.

By your Proceedings against me, you declare to the whole World, that when Mr. *Dudge* describes *Esreff's* favourite *Sultana*, he means to cast black and odious Colours on the Queen. But, alas! I have the geatest Regard imaginable for her Sacred Majesty, and every Branch of her Family.

Avarice was never her Vice, neither did she expect a greater Jointer than the Treasure she brought to the King her Husband might entitle her to demand; which Fortune was near 1000 *l. Sterling*, besides a Necklace of some small Value: And this shews the Villainy of those *Jacobite* Stories, that pretend,

there's an Intention to give larger Portions to the Royal Daughters, than their Glorious Mother enjoy'd, when she married the present Monarch of *Britain*.

I had, the other Day, a great Dispute with one of your Messengers, relating to the Queen, your Mistress. I was praising her Majesty for the conspicuous Affability of her Behaviour, to all Ranks of People that wait upon her ; but, I must confess, I was struck with Horror and Amazement when I heard his Answer. 'Tis when she affects Popularity, says the Messenger, in a Whisper, that she shews her private Malice; for her narrow Genius is below publick Mischief, and contracted to distress private Families, by repeating the scandalous Stories that Malice and Envy have begot, to furnish Matter for the Folly of her Tongue. Thus Popularity, the beautiful Companion that adorns the Mein of Majesty, and ever appear'd amiable in the Court of King *Charles II.* the just Resemblance of the P——r, is now bedeck'd with Snakes and Serpents, to sting the great Families of *England*. Besides, the Messenger advis'd me to take care of my Behaviour at *Paris* ; for, says he, should the Queen know it, she will certainly send to your Wife, to inform her of your Irregularities.

You

You may imagine I was much surpriz'd, to hear such a Conversation from a Messenger; but, as my Lord *Townshend* says, I'm a cunning Fellow, and soon found out, he belong'd to the Duke of *N——*'s Office, who, it seems, has not forgot, that the King, at a certain Christening, trode upon his Toes, and call'd his Grace Rogue and Rascal.

When Mr. *Dudge* mentions *Esreffe*'s Chief Scribe, as guilty of publick Depredations, and represents him as a publick Plunderer; your prosecuting of me wou'd insinuate, that 'tis your Character he endeavours to strike at in that Part of the Letter. Surely your whole Life is free from Imputations that can give any Colour to a Parallel of that Nature. When you was expell'd the House of Commons, for Corruption, the Sum charg'd upon you was but 1000*l.* and, consequently, was but of little Importance to the Publick, or your self: Besides, your present Poverty, and Necessities of all your indigent Relations, is an apparent Argument of my Innocency from any Intention of prejudicing your Reputation, by the *Journal* in Question. I'm perswaded, when I consider the Condition of your private Affairs, and the Situation they were known to be in, in
the

the Year 1714, that, when you die, 'twill be the Publick that pays the Expences of your Funeral. You are as free from Ambition as Corruption; as evidently appears in the Manner by which you decline the Peerage, and content yourself with remaining a Commoner, adorn'd with the Ensigns of Knighthood; which is a rare Example of Prime Ministerial Modesty!

You declare, by your Proceedings against me, that Mr. *Dudge*, when he represents *Esreff's* Minister at *Constantinople*, in the ridiculous Light of a Buffoon, intends to reflect on his Excellency *Horace Walpole*: But I'm certain, you know your Brother too well to believe there's the least Foundation for an Insinuation of that Nature.

By your prosecuting me, you publish to the World, that Mr. *Dudge*, when he represents *Esreff's* Ministers as ignorant of foreign Affairs, intends to satirize the present Administration of *England*: But all *Europe* must see the Extravagancy of such an Assertion; for the prudent and necessary Measures taken, by your Advice, to prevent a War in *Europe*, have, at length, been crowned with Success.

The vast Sums that have been employ'd to equip Fleets, and support a Standing-Army, can never be regretted by the People;

People, however they may groan under the intolerable Load of Taxes ; since they have purchas'd the safe, honourable and glorious Peace, that has been concluded at *Soissons* ; as appears by the Return of the Plenipotentiaries to their respective Courts. The Consequences of this glorious Negotiation visibly appear, by the great Rise of publick Credit, and the present flourishing Condition of our Trade.

I am now, Sir, obliged to implore the Mercy, which is a Virtue that has shin'd in many Actions of your Administration, to pardon me for the only Part of the Paper, which, it seems, you've gather'd Witnesses from most Countries in *Europe*, to prove is criminal against the present Government : I mean the Paragraph relating to the young *Sophi's* Character. The Virtues Mr. *Dudge* gives to the *Sophi*, you seem to declare, must mean the *Pretender* and his Family. I have no Defence to this Article ; such is the Number of Witnesses to support it. His Behaviour, at the Battle of *Malplaquet*, is, as I am inform'd, prov'd by the Troops he charg'd, as well as by those he headed. His passing into *Scotland*, only with Two Servants, in a little Fishing-Boat ; and traversing the *English* Fleet, lying to intercept him, when he
knew

knew that *Preston* and *Dumblain* were over, before he quitted *France*, sufficiently justify the Parallel of the Two Characters; and this at a Time when One Hundred Thousand Pounds were offered to engage bloody Assassines in any desperate Attempt upon his Person.

I have therefore no other Plea to this Part of the Charge against me, but that no Man can mention a compleat Character, in any respect of Life, but must as properly be apply'd to the Person who pretends to be the undoubted Heir of the *Stuarts* Family; and that, whilst he lives, Praise, the just Reward of Virtue, must not only cease amongst us, but Virtue itself become treasonable, whenever it shines forth so as to bear Resemblance to any of those numberless Excellencies, that make him the Delight, as well as the Admiration of every other Country and People but his own.

How precarious then must the Life, Liberty, and daily Bread of every Historian, Poet and Painter be, in *Great-Britain*, if Panegyrick and Satire be declar'd High-Treason, as often as Vice happens to prevail, and Virtue be in Distress? Consider these Things, and shew Pity to thy Afflicted Servant,

